



Staff & Volunteer MANUAL

1000 Main Street, Room 113
Cincinnati, Ohio 45202
513-946-5650

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GENERAL INFORMATION

About the Help Center

The Hamilton County Municipal Court Help Center opened in September 2017. The Help Center's mission is to increase access to justice by providing self-represented litigants with education, information and limited legal advice to help them become better equipped to understand their legal issues and navigate the court system. The Help Center was developed through a partnership between the Hamilton County Clerk of Courts, Municipal Court, the County Commission, and the University of Cincinnati College of Law. The Help Center is staffed with a full-time attorney and paralegal, and is supported by volunteer law students and volunteer attorneys in the community.

What does the Help Center do?

The Hamilton County Municipal Court Help Center provides self-represented litigants in the Hamilton County Municipal Court with information and limited legal advice to help them better navigate the court system and advocate for themselves in court. The Help Center's services are free, open to the public and are offered on both a walk-in and by appointment basis. The main areas of assistance are:

- Evictions
- Landlord/tenant issues
- Small claims
- Creditor/debtor lawsuits
- Other civil municipal court issues

What do volunteers do?

The Help Center is volunteer-driven, and volunteers fill the following roles:

- Explaining the law, legal processes and assisting in completing filing.
- Assisting at our front desk: greeting visitors, providing forms, looking up cases, etc.
- Research & writing: informational guides, model filings, filings on novel or new areas

Passwords

Clerk of Courts website document access (link on top right of clerk website):

ID:

Wifi network:

HCPub

Public Computer Terminals:

UN:

Printing from laptops: Go to “printers” on your laptop. Add a printer. Show wifi direct printers. Enter the code that appears on the screen on our printer.

Contact information

Information vs. Legal Advice

The HC provides both information and legal advice to our visitors. Only an attorney can give legal advice. Non-attorney volunteers can provide information as detailed below.

Front desk: Only provides information (even attorneys). This helps set clear expectations and avoids potential conflicts.

Back tables: Can be used by students providing in depth information to visitors and attorneys giving legal advice. For each, we give appropriate disclaimers as listed in interview guides. If legal issues arise while providing information, you can get an attorney or schedule them for a longer legal advice consultation.

Legal information vs Legal Advice

How you frame an issue often determines whether it is legal information or legal advice.

Legal Information	Legal Advice
Generally available to all	Tailored to the needs of a specific person
Explain and answer questions about how the court works	Recommend whether a client should file a case or what actions they should take
Provide court forms and assist in completing the form without telling what specific words to write on the form, checking forms for completeness	Tell clients what words to use in court filings or what words to say in court
Providing forms that a person can choose to use	Selecting and telling clients to use specific forms
Give general information on court rules, procedures, practices, terms and laws	Interpret the law or apply the law to the specifics of a person's case
Provide information from public records, such as the clerk's website	Give an opinion about the likely outcome in court when filing a suit, motion or appeal
Give general information about court and legal deadlines	Calculating deadlines for a specific case
Facts about the law and the legal process	Advice about the course of action a client should take to further his or her own best interests
Staff should answer questions that call for factual information – questions that start with “who,” “what,” “when,” “where,” or “how.”	Staff should not answer questions that call for an opinion about what a litigant should do – questions that contain the words “should” or “whether.”

<u>Educating</u> the litigant or potential litigant	<u>Guiding or directing</u> the litigant or potential litigant
Giving the same assistance, at the same level of service, to both sides of all types of cases served.	Advocating for one side in a case.

Tips

- “I cannot tell you what do. I can give you information about what the law says and the court process.”
- Use phrases like, “Generally speaking” and the 3rd person
- Avoid “You should,” “You can” and the 2nd person
- Use hypothetical examples to illustrate the point
- Offer to schedule an appointment with a lawyer for legal advice if needed.
- Imagine the other litigant can hear you. If you are giving neutral information, the other side should be able to hear it.

Intake

When people come into the HC, our front desk staff will quickly determine whether a person needs or wants **brief information, in-depth information** or **legal advice**.

Brief information: Short interactions at the front counter, answering questions about court processes and providing legal forms.

- For each visit, fill out the 2 check boxes in the Brief information intake sheet

Case Type				
<input type="checkbox"/> Small claims	<input type="checkbox"/> Eviction- Landlord	<input type="checkbox"/> Creditor/debtor	<input type="checkbox"/> Garnish.- Debtor	<input type="checkbox"/> Escrow
<input type="checkbox"/> Eviction- Tenant	<input type="checkbox"/> Landlord/Tenant	<input type="checkbox"/> Garnish.-Creditor	<input type="checkbox"/> Civil-other	<input type="checkbox"/> Other
Primary Assistance Given				
<input type="checkbox"/> Directions	<input type="checkbox"/> Court records look up	<input type="checkbox"/> Objections/ appeals		
<input type="checkbox"/> Court processes/general	<input type="checkbox"/> Pre-filing advice/case evaluation	<input type="checkbox"/> Computer Terminal		
<input type="checkbox"/> Forms & filings	<input type="checkbox"/> Hearing/trial preparation	<input type="checkbox"/> Notary		
<input type="checkbox"/> Service	<input type="checkbox"/> Discovery	<input type="checkbox"/> Other		

In depth information: A longer sit down with a law student to explain the court process and make sure paperwork is complete. If legal questions arise, an attorney can get involved to provide legal advice.

- Fill out the intake packet as detailed in the interview guides, including the terms of service, demographic questions, case type/assistance given and the survey.

Limited legal advice: A consultation with an attorney to give advice on how to handle their legal issue. Students can assist with legal advice by conducting interviews and preparing pleadings under the supervision of an attorney.

- Fill out the intake packet (next page) as detailed in the interview guides, including the terms of service, demographic questions, case type/assistance given and the survey.

THE HELP CENTER

Acceptance of Terms and Conditions of Service

The Help Center (The Center) provides free, limited assistance to people who are representing themselves in civil matters in Hamilton County Municipal Court to help them better represent themselves.

The Center is not intended to replace the advice of a lawyer you might otherwise hire. You should consider the costs and benefits of hiring a lawyer to represent you before deciding to represent yourself.

The Center is staffed by:

- Full-time Executive Director – who is a licensed attorney
- Licensed attorneys – who volunteer on a rotating basis
- Law Students – who are trained to provide information and prepare certain documents under the supervision of a licensed attorney, but CANNOT give any legal advice
- Non-lawyer staff – who provide clerical, non- legal support, but CANNOT give any legal advice

The Center lawyers and law students:

- Provide you with basic information about court procedures
- Help you complete court forms

The Center lawyers :

- Will only provide limited legal advice about civil matters, such as process, court procedures, and completing documents in your case
- Will only provide assistance during your visit to The Center
- Will only consider the information you give them
- Will not be able to give you comprehensive legal advice
- Will not be able to conduct comprehensive legal research on your matter
- Will not be able to perform any independent or comprehensive investigation of your matter
- May conclude that, given your situation, she/he advises you to seek more extensive legal advice from another lawyer

The Center WILL NOT:

- Represent you in court
- Be responsible for taking any action for you
- Have any involvement in assisting you after your visit to The Center
- Retain any of your documents or records, whether in electronic format or in hard copy

Conflicts of Interest:

Happen when a lawyer at The Center may have helped another party involved in your case who has interests that are against your interests.

- If you are aware that a lawyer with The Center has already helped someone else involved in your case, **you must tell The Center.**

- If any lawyer at The Center is aware of a conflict of interest because of assisting someone else involved in your case or another reason known by that lawyer, that lawyer will NOT be able to help you in any way.
- Volunteer lawyers with The Center are not required to systematically check conflicts of interest with their law firms, due to the limited nature of consultations at The Center.

By signing below, I understand and agree to all of the following:

- That law students and any other non-lawyer staff at The Center are not able to give me legal advice.
- That I will only be provided limited legal advice about process, procedures and the completion of appropriate documents related to my case.
- That the representation I am getting is limited only to legal advice and information while I am at The Center.
- That any legal advice I receive during my visit to The Center will only take into consideration the information that I give the lawyer assisting me.
- That no lawyer at The Center can give me comprehensive legal advice, conduct comprehensive legal research regarding my matter, or perform any independent or comprehensive investigation of my matter.
- That no one from The Center will represent me in court, that I am only getting legal advice or information while I am at The Center, that obtaining information and assistance while at The Center does not result in any ongoing attorney-client relationship or obligation once I leave The Center, and that I will not state otherwise.
- That any lawyer permitted to give me legal advice at The Center is not my lawyer for any other purpose and will not give me help beyond the limited legal advice provided to me at The Center.
- That I will disclose to the Center if I know that the Center has helped another party involved in my case. I understand that any lawyer at the Center who knows he or she has a conflict of interest will not be able to help me with my legal matter.
- This document has two sides. I have had enough time to review this document and to ask any questions. If I cannot read, I acknowledge that someone has read this document to me.
- I have reviewed and accept all of the above Terms and Conditions of Service.

Signature

Date

Print Name

INTAKE
INTERVIEWER
INITIALS

Please fill out the top portion of this form

PLEASE FILL OUT THIS SECTION

Today's Date		First Name		Middle initial	Last Name	
Your Age		Zip Code		All information is confidential		
Your Case Number						
Have you been assisted by the Help Center before?		<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, have you visited for help with the same case/legal issue?			<input type="checkbox"/> Yes <input type="checkbox"/> No
How did you hear about the Help Center?		<input type="checkbox"/> Courtroom staff <input type="checkbox"/> Courthouse staff	<input type="checkbox"/> Website <input type="checkbox"/> Word-of-mouth	<input type="checkbox"/> Other		
Primary Phone		Email address				
Gender: How do you identify yourself?						
<input type="checkbox"/> Female	<input type="checkbox"/> Male	<input type="checkbox"/> Transgender	<input type="checkbox"/> Other	<input type="checkbox"/> Prefer not to answer		
Race/Ethnicity: How do you identify yourself?						
<input type="checkbox"/> American Indian or Alaska Native		<input type="checkbox"/> Hispanic or Latino		<input type="checkbox"/> Multiracial		
<input type="checkbox"/> Asian		<input type="checkbox"/> Pacific Islander		<input type="checkbox"/> Other		
<input type="checkbox"/> Black or African American		<input type="checkbox"/> White		<input type="checkbox"/> Prefer not to answer		
Income						
Is your income <u>above</u> or <u>below</u> the income listed for your household size?		Number of people in your household	Monthly Income	Yearly Income		
<input type="checkbox"/> Above	<input type="checkbox"/> Below	1	\$2,513	\$30,150		
<input type="checkbox"/> Prefer not to answer		2	\$3,383	\$40,600		
		3	\$4,254	\$51,050		
		4	\$5,125	\$61,500		
		5	\$5,996	\$71,950		
		6	\$6,867	\$82,400		
		7	\$7,738	\$92,850		

STOP HERE ↓ BELOW THIS LINE FOR OFFICE USE ↓ STOP HERE

FOR OFFICE USE	Assistance Level	<input type="checkbox"/> Information	<input type="checkbox"/> In-depth info	<input type="checkbox"/> Legal advice	Referred?	
	Case Type					
	<input type="checkbox"/> Small claims	<input type="checkbox"/> Eviction- Landlord	<input type="checkbox"/> Creditor/debtor	<input type="checkbox"/> Garnish.- Debtor	<input type="checkbox"/> Escrow	
	<input type="checkbox"/> Eviction-Tenant 1 st	<input type="checkbox"/> Landlord/Tenant	<input type="checkbox"/> Garnish.-Creditor	<input type="checkbox"/> Civil- other	<input type="checkbox"/> Other	
	Primary Assistance Given					
	<input type="checkbox"/> Directions	<input type="checkbox"/> Court records look up	<input type="checkbox"/> Objections/ appeals		<input type="checkbox"/> Computer Terminal	
<input type="checkbox"/> Court processes/general	<input type="checkbox"/> Pre-filing advice/case evaluation	<input type="checkbox"/> Hearing/trial preparation		<input type="checkbox"/> Notary		
<input type="checkbox"/> Forms & filings	<input type="checkbox"/> Discovery	<input type="checkbox"/> Other				
<input type="checkbox"/> Service						
Name of filing						
Next court date		Notes for file				
Notes:						

VISITOR SATISFACTION SURVEY

Were you helped today?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, how were you helped?	
Do you better understand you case/legal issue	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you better understand what to do next?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you feel better prepared for your case/legal issue?	<input type="checkbox"/> Yes <input type="checkbox"/> No
How can we do better?	

SMALL CLAIMS

Interview Steps	p. 1
Overview of small claims process	p. 2
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Challenging the Outcome of Small Claims Hearings	p. 4
Guides	Attached

INTERVIEW STEPS- Small Claims Complaint

1) Disclaimer- Sign terms of service & intake sheet

- Ask to sign the terms of service and fill in top portion of the intake sheet
- I am a law student, not attorney
- I cannot give you legal advice. I can't tell you what you should do or what to write.
- I can give you information about the law, the legal process and how to fill out legal forms.
- If a legal question arises, I will consult with an attorney

2) Overview or Small Claims Court Process

- Walk through the before filing guide to explain the process and things to consider before filing.

3) Filing out the SC Complaint

- Use the sample complaint to assist you.
- You cannot tell people what to write, but can give assist in helping them complete it.
- Filling out the complaint is a good opportunity to double check whether a person has fully considered the things to think about before filing (suing proper defendant, etc.).

4) Report back to HC attorney when available

- Bring the complaint, any questions and potential issues

5) Give after filing guide and give steps

- Other party(s) will have to be served for case to move forward
- Person can make another appointment at the HC to go over their evidence and prepare for the hearing
- It may be good to watch some hearings in room 265 starting at 9am if possible
- Make sure to arrive at the courthouse exceedingly early on the day of trial (8am would be a suggestion)

6) Finalizing filing, survey and intake sheet

- Bring complaint to clerk staff to sign
- Give the Small Claims court date (earliest possible, but person can choose later)
- Make copies and ask person to do survey
- Send person to room 115 to file complaint
- Fill out the bottom section of the intake sheet

OVERVIEW OF SC COURT PROCESS

What is Small Claims Court?

Small Claims is a division of the Hamilton County Municipal Court that was created to permit easy access for people with disputes involving relatively small amounts of money. A magistrate (a lawyer appointed by the court) hears small claim cases. Small Claims can only decide claims for money up to \$6,000. The Small Claims court cannot order a defendant to do anything other than pay a specific sum of money, so you must be able to put a price tag on any damages you have suffered because of the defendant's actions. .

Some typical cases are:

- Tenants suing for the return of security deposits
- Landlords suing for property damage beyond the amount of a security deposit
- Vehicle accidents
- Faulty repairs of cars and other property
- Deceptive Sales

Pro se litigants have the following common issues that often present at the HC:

- Understanding the basics about small claims court (process, purpose, acceptable cases)
- Properly filing out small claims complaints (suing the right party, stating a claim, meeting formal requirements)
- Understanding and perfecting service
- Requesting new trials (when missed court)
- Objecting to the magistrate's decision

Sources

R.C. Chapter 1925, Ohio R. Civ. Pro. 3-6 (service) and 53 (magistrates), Hamilton County Municipal Court Local Rule of Civil Procedure XV (Small Claims)

ADDRESSING SERVICE ISSUES- Yellow Lined

Most days, the HC will see small claims litigants whose cases have been “yellow lined,” meaning that the opposing party was not properly served. The case is put on hold until service can be completed. Service is covered by Civ. R. 4-6. **Service issues can, at times, be opportunities to address other filing issues, like suing the wrong party. It is a good idea to look at the complaint to identify other issues that will present themselves after the person overcomes service problems.**

Look at the case history/docket to determine the status of the service. The clerk’s website link’s to the post office certified mail tracking site.

Common Service Issues

Certified returned undeliverable for reasons other than unclaimed or refused: In most cases, the person will need to find a new address to serve the person. Once they find a new address, they would file an **alias summons**. If they are confident that the address is good, it is usually a good idea for the person to contact the post office in the delivery zip code to inquire why it was not delivered.

Certified mail sent out but no information returned to the court: Here, there may not be an issue with the certified mail, but the court has not yet received the certified mail return (and so the service has not yet been perfected). The certified mail tracking site (accessible through the clerk’s website) can give some insight on the status of the certified mail. **If 30 days or more has passed since certified mail has been sent out, we can fill out a “Reissue form- certified mail at no charge.”**

Certified mail returned as unclaimed or refused but ordinary mail is returned as undeliverable: Likely, the person will need to find a new address or, if confident address is correct, send certified mail to same address. If doing the latter, it is advisable to contact the post office to ask why it wasn’t delivered prior. In either case, an **alias summons** would be filed.

CHALLENGING THE OUTCOME OF SC HEARINGS

Either Party Misses the Court Date

If a plaintiff misses court, the case is usually dismissed. If the defendant misses court, the case often results in a default judgment.

- If the party requesting a new trial does so before the judge signs the entry (usually 15 days and can be looked up on the case history), the party can file a **Motion for New Trial**.
- If the party has already had one motion for a new trial and comes before the judge signs the entry, the party can file a **Motion to Set Aside the Order**.
- If they request a new court date after the judge has signed the entry, they must file a **Motion to Set Aside _____** (whatever action the court took: dismissal, default judgment, etc.). Or, if plaintiff, re-file.

Objecting to the Outcome

Appeals from the magistrate's decisions are called objections. If you believe the magistrate made a mistake in your case, you can file an Objection to Magistrate's Decision. The court will independently review the magistrate's decision for mistakes in fact or law and will either affirm or overrule the magistrate's decision. The court MAY hear additional evidence, but may refuse to do so unless you show that you could not have, with reasonable diligence, produced that same evidence for the magistrate to consider. To file an objection, you must follow the steps below. See HC guide and OH. Civ. R. 53.

1) Request Findings of Facts and Conclusions of Law (optional)

A magistrate's decision may be general unless you file a Request for Findings of Facts and Conclusions of Law. The Request must be made within 7 days of the magistrate's decision. The magistrate will write a detailed explanation of the facts and the law upon which the decision was based and file it with the court. You should receive a copy in the mail.

2) File an Objection to the Magistrate's Decision

The Objection to Magistrate's Decision must be filed within 14 days of the Magistrate's decision, or 14 days after the magistrate files the written Findings of Fact and Conclusions of Law. Your objection must be specific and state all errors that you believe exist in the magistrate's decision. Objections to a factual finding must be supported by a transcript or an affidavit if transcript is not available.

3) Request for Transcript of Magistrate's Hearing

You must file a request for transcript with the court within 30 days after filing objections. Generally, the objecting party bears the costs of the transcripts. Fill out a Request for Transcript of Magistrate's Hearing and bring it to room 555 of the courthouse with a \$50 cash deposit for the transcripts.

4) Court Ruling on Objections

The court will take an independent review on the matters objected to and determine whether the magistrate made legal or factual mistakes that would change the ruling. The court may hold another court hearing to hear more from you about the objection. The court can adopt or reject the magistrate's decision or return the case back to the magistrate.

SAMPLE

Hamilton County Municipal Court, Cincinnati, Ohio Small Claims Complaint

Your Name _____

Case No. _____

Your Street Address _____

In accordance with civil rule 4.6 (C) or (D) and 4.6 (E), an ordinary mail waiver is requested

Your City, State & Zip Code, Your Phone Number

Plaintiff(s)

Phone Number

VS.

Amount \$ **Amount You Are Suing For** _____

Defendant #1 Name _____

HAS TO BE \$6,000 OR LESS

Defendant #2 Name _____

Defendant(s)

Plaintiff says that there is due and owing from the defendant(s) the sum of **Write the amount out you are suing for** _____ dollars

For the following reason(s): **Nature of Claim (You can be brief)** _____

Interest, if applicable, from the _____ day of _____, _____ **Plus Court Costs.**

ATTENTION: ALLOW SUFFICIENT TIME TO ENTER THE COURTHOUSE DUE TO SECURITY CHECK. DELAYS POSSIBLE.

SERVICE ADDRESSES Notice and summons in action for money only

To: (1) **Defendant #1 Name** _____

(2) **Defendant #2 Name** _____

Defendant #1 Street Address _____

Defendant #2 Street Address _____

Defendant #1 City, State & Zip Code _____

Defendant #2 City, State & Zip Code _____

Notice to the Defendant: The court will hold trial on this claim at the Hamilton County Courthouse, 1000 Main St., Rm. 265 at 9:00 A.M., on:

If you do not appear at the trial, judgment may be entered against you by default, and your earnings may be subject to garnishment, or your property may be attached to satisfy the judgment. If your defense is supported by witnesses, account books, receipts, or other documentation, you must produce them at the trial. Subpoenas for witnesses, if necessary, should be filed with the clerk at least seven (7) days before the trial. If you believe you have a claim against the plaintiff, you must file a counterclaim with the court and must serve the plaintiff and all other parties with a copy of the counterclaim at least seven (7) days prior to the trial date of the plaintiff's claim. **All filings to be filed/mailed with the appropriate fees to: Hamilton County Clerk of Courts 1000 Main St. Rm. 115, Cincinnati, Ohio 45202.** If you admit the claim but desire time to pay, you may make such a request at the trial.

Memorandum to the Plaintiff

Bring your evidence and witnesses, if any, with you. Subpoenas for witnesses, if necessary, must be filed with the clerk at least seven (7) days before the trial date. **On accident cases involving a motor vehicle, you must bring your title to the vehicle.**

Plaintiff further states that to the best of their knowledge the defendant is / is not a member of the Armed Forces of the United States of America.

X **Your Signature** _____

Your Phone Number _____

Signature of Plaintiff/Attorney

Attorney Address Only

Phone No.

Attorney ID No.

Subscribed and sworn to before me this _____ day of _____, 20____

Flip this page for more information

Mark the ordinary mail waiver box: You are paying for it anyway, but it needs to be checked.

Name and addresses defendants: The top line should list only the defendant's name.

- Multiple defendants should be listed separately with separate addresses
- If suing a business, it should be only the business name.
- If suing an individual, it should list only the person's name.
- If suing an individual "doing business as", it would read "John Smith, DBA, Smith Carpentry". This would mean you are only suing the individual, not the business.
- If suing a minor through the parent, it should read: "Name of parent, as parent and guardian of name of minor, a minor, MS"

Amount suing for: Written in numbers at top and in words below.

State claim: Can be brief and does not need to include actual evidence. Needs to put other party on notice of what they are being sued for and state a claim that they can legally recover (a case covered by small claims asking only for money).

Service Address: Typically copy the exact name and address of defendant from the defendant line above. All defendants must be served separately. Some exceptions:

- **Serving agent:** Name of Defendant,
C/O Authorized agent, Name of Agent
Address
Address
- **Serving at place of employment:** Name of defendant
Name of Employer
Employer address
Employer address

EVICTIONS

Overview

Filing and eviction

Challenge the outcome of 1st cause hearings

2nd Cause Answer and Counterclaim

Motions to Remove from the Clerk's Website

Legal Aid Guide "Tenants Guide to Eviction Court"

OVERVIEW

Two Trials

Evictions are governed by R.C. 1923, “forcible detainer.” Most eviction cases have two parts. On the Complaint, a First and Second “cause” or “claim” are listed. Although they are part of the same lawsuit, the court treats them like separate cases with separate trials. Unlike small claims court, the Rules of Evidence and Civil Procedure do apply, causing pro se litigants trouble.

First Cause: Eviction

The landlord claims the tenant no longer has the right to stay in the home. The landlord asks the court for an order to force the tenant to leave. A court date is set within 18-21 days of filing the complaint and is included on the Summons. The only thing decided at this trial is whether the tenant will be evicted.

Generally, first cause trials are held at 9 am in room 121, with 20-70 cases heard within 1-1 ½ hours. If people are late, the court has often already called their case and either dismissed it (if a landlord is late) or granted the eviction (if a tenant is late). When an eviction is granted, the court usually issues a 7-day writ, which gives 7 days before the landlord can request that the bailiff assist with a set out (executing the writ—removing the tenant’s belongings from the home and locking the tenant out). The court will give less time to vacate if there is evidence of criminal activity or destruction of property. The court can grant a 3-day writ when the first cause has been continued. For tenants challenging the outcome of a first cause trial, there are special appeal procedures (Local Rule XXIV).

Second Cause: Money

The landlord claims that the tenant owes money, usually for back rent and damage to the property. Regardless of whether the tenant wins or loses on the first cause, the court may consider the second cause. Generally, if the tenant does not file an answer or answer & counterclaim within 28 days of service, the landlord can ask for a default judgment for back rent and damages. A court date is only set when the tenant files an answer or when the landlord files a request for a default judgment. Generally, second cause hearings are held at 10:30 in room 121. The room sees claims/defenses/counterclaims for back rent and damages, landlord motions for default judgments and rent escrow hearings. If a landlord or tenant is granted money at the second cause, they can proceed with collections if not paid.

Filing an Eviction

Requirements	Common Grounds for Eviction + Notice	Common Language on notice
<ul style="list-style-type: none"> ✓ Grounds for eviction ✓ Notice to leave the premises ✓ Complaint 	<ul style="list-style-type: none"> • Nonpayment of Rent (3-day notice) • Expiration of Lease (30-day notice, followed by 3-day notice) • Notice to Vacate in the absence of a lease (1 calendar month notice, followed by a 3-day notice) See R.C. 5321.17 • Breach of a Written Lease (3-day notice) • Breach of lease: Violations of Tenant Duties of 5321.05 (30-day notice followed by 3-day notice) <u>Even if a written lease violation</u> • Certain Drug Violations (3-day notice, with a search warrant) (very rare) 	<ul style="list-style-type: none"> • Nonpayment of rent • Notice of non renewal-30 day Overstaying- 3 day • Owner seeks to reclaim property-30 day Overstaying- 3 day • Breach of lease (specify) • Specify condition-30 day Overstaying- 3 day • Drug activity

Notice to Leave the Premises

A sample notice is attached. The Notice must meet the following requirements, or will be dismissed at the trial:

- Be signed by the owner or property manager (who would have to appear at court with an attorney)
- Be provided by certified mail, handing it to defendant in person or leaving it at the defendant's usual place of abode or at the premises from which the defendant is sought to be evicted
- Be given (as evidence on the date) a full 3 days (not including day given) before person must vacate.
 - **Example:** Date: October 5, 2017; Date to vacate: October 8, 2017. (The tenant has 3 full days to vacate before landlord can file, on October 9th)
- Contain the EXACT language in R.C. 1923.04 (see sample notice)

Complaint

- A sample Complaint is attached.
- The complaint must be signed by either the owner or attorney. If the property is owned by an LLC or trust only an attorney can file the eviction or represent the landlord in court.
- Possession only: Fill out only 1st Claim, costs less
- Possession and money: Fill out 1st, 2nd and 3rd claim, costs more to file

NOTICE TO LEAVE THE PREMISES

Keep a copy of your notice. You will need it for court

(FOR RESIDENTIAL PROPERTY ONLY)

TO Name of tenants. If others may be living there, one can add "and all other occupants" Tenant:

You are hereby notified that I/we want you out on or before Date tenant should leave,

to leave the premises you now occupy and have rented of me/us, situated and described as follows:

Full address, including apartment number

Eviction Address

In Cincinnati, Hamilton County, Ohio.

Grounds:

Common grounds and notice requirements		
Non-payment of rent	3-day	
Terminating month-to-month-tenancy: "Owner seeks to reclaim property"	At least 30 days before "periodic tenancy date" (usually 1 full calendar month)	3-day notice for "overstaying" after 30 day expires
Breach of written lease	3-day, unless it's a breach of tenant obligations under R.C. 5321.05 that effect health and safety	
Breach of tenant obligations under R.C. 5321.05 that effects health and safety	30-day, and the tenant has a right to fix the issue	3-day notice for "overstaying" after 30 day expires

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS AS A TENANT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.

Date you give the notice,

Notice given on this date

Dates: An eviction cannot be filed until 3 full days after giving the notice. The day the notice is given does not count.

Example:

Tenant's rent is due by June 5th.

Landlord can give a 3- day notice on June 6th, telling them to be out by June 9th.

Landlord could file the eviction on June 10th.

Owner Owner Name

Address Owner address

City, State, Zip Code Owner address

Telephone Number Owner phone number

Tenant obligations

Ohio Revised Code 5321.05 (A-B)

(A) A tenant who is a party to a rental agreement shall do all of the following:

(1) Keep that part of the premises that he occupies and uses safe and sanitary;

(2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;

(3) Keep all plumbing fixtures in the dwelling unit or used by him as clean as their condition permits;

(4) Use and operate all electrical and plumbing fixtures properly;

(5) Comply with the requirements imposed on tenants by all applicable state and local housing, health, and safety codes;

(6) Personally refrain and forbid any other person who is on the premises with his permission from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the premises;

(7) Maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliances supplied by the landlord and required to be maintained by the tenant under the terms and conditions of a written rental agreement;

(8) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises;

(9) Conduct himself, and require persons in his household and persons on the premises with his consent to conduct themselves, in connection with the premises so as not to violate the prohibitions contained in Chapters 2925. and 3719. of the Revised Code, or in municipal ordinances that are substantially similar to any section in either of those chapters, which relate to controlled substances.

(B) The tenant shall not unreasonably withhold consent for the landlord to enter into the dwelling unit in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels that are too large for the tenant's mail facilities, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

HAMILTON COUNTY MUNICIPAL COURT, HAMILTON COUNTY, OHIO

YOUR NAME _____

CASE NO. _____

ADDRESS _____

COMPLAINT FOR EVICTION AND MONEY

CITY, STATE, ZIP CODE _____ PLAINTIFF

VS.

IN ACCORDANCE WITH CIVIL RULE 4.6 (C) OR (D) AND (E), ORDINARY MAIL WAIVER REQUESTED

THEIR NAME _____

ADDRESS _____ APT.# _____

CITY, STATE, ZIP CODE _____ DEFENDANT

FIRST CLAIM

1. Plaintiff(s) states that they are the owner(s) of the premises. The address that the tenant is to be evicted from is: _____ apt.# _____ Cincinnati, Hamilton County, Ohio.
2. Defendant(s) entered said premises as a tenant of the plaintiff, and have either entered into an unlawful and forcible entry and detention, or an unlawful and forcible detention after a peaceable or lawful entry of the described premises.
3. Plaintiff served the defendant with a notice in writing on: _____
4. The date on the notice when the tenants were told to leave was: _____

SECOND CLAIM

1. Plaintiff reiterates and reaffirms all of the allegations in the first claim. The tenant(s) owe rent in the amount of \$ _____ which includes all rent up to and including the current rental period.
2. Plaintiff is entitled to \$ _____ per day (divide 1 month's rent by 30 to get amount) as damages for use and occupancy of the premises until the date of judgment, this being the reasonable value for the use of said premises.

THIRD CLAIM

1. Plaintiff reiterates and reaffirms all of the allegations in both the first and second claims.
2. Plaintiff may be entitled to money for damages beyond "normal wear and tear", in addition too late charges and utilities, in an amount not to exceed \$ _____ (you must make an estimate on this amount).

WHEREFORE, PLAINTIFF DEMANDS:

- (a) Restitution and recovery of said premises.
- (b) Judgment for back rent in the amount of \$ _____ (See line 1 on second claim).
- (c) \$ _____ per day until date of judgment for use and occupancy of said premises (See line 2 on second claim).
- (d) Damages, late charges, & utilities not to exceed \$ _____ (See line 2 on third claim), and costs.

SIGNATURE

NAME (PLEASE PRINT)

ADDRESS

CITY, STATE, ZIP CODE

TELEPHONE NUMBER

CHALLENGING THE OUTCOME OF 1ST CAUSE HEARING

Landlord/Plaintiff does not appear at hearing

Court will often dismiss the 1st cause. Plaintiff can file a **Motion to Set Aside Dismissal of First Cause of Eviction and Proceed to Trial**. Court date 8 days out.

Tenant/Defendant does not appear at hearing-BEST FOR LEGAL ADVICE

Court will often grant the writ (most often a 7-day). Defendant can file a **Defendant's Motion for New Eviction Trial and Magistrate's Entry Setting Bond**. These require a month's rent as bond, which is lost if the tenant can lose. The new trial only affects the 1st cause and has nothing to do with 2nd cause/money issues.

Explain:

- Only affects whether you have to leave, nothing about money
- Will likely have a bond of 1 month's rent. If the case is lost, the bond is usually lost too
- The new trial does not usually buy much, if any time. They are heard very quickly.
- If you lose, you will likely be given 3 or 0 days to move.

Process:

- Tenant has the length of the writ (7, 3 or 0 days) to file
- Tenant fills out form, explains why missed court, signs and enters address.
- Tenants waits while we walk the form to the room clerk or Stephanie (the courtroom clerk supervisor)
- A magistrate will set a bond and sign the form. Bond is usually 1 month's rent payable day motion is filed.
- The tenant must file with the bond amount in cash or money order
- A court date will be set. If new trial is granted at court date, immediately proceeds to eviction hearing.

Tenant appears at hearing but loses-BEST FOR LEGAL ADVICE

Defendant can file a **Notice of Appeal from Eviction, Entry Staying Writ and Setting Bond and Request for Transcript of Magistrate's Hearing**. These require a month's rent as bond, which is lost if the tenant loses at 1st cause.

Explain:

- Only affects whether you have to leave, nothing about money
- Will likely have a bond of 1 month's rent. If the case is lost, the bond is usually lost too
- The new trial does not usually buy much, if any time. They are heard very quickly.
- If you lose, you will likely be given 3 or 0 days to move.

Process:

- Tenant has the length of the writ (7, 3 or 0 days) to file
- Tenant fills out **Notice of Appeal from Eviction** laying out why the magistrate was wrong with any accompanying evidence
- Tenant fills out caption and signs **Entry Staying Writ and Setting Bond**
- Tenants waits while we walk the form to the room clerk or Stephanie (the courtroom clerk supervisor)
- A magistrate will set a bond and sign the form
- The tenant must file with the bond amount in cash or money order
- Tenant orders transcript of proceedings within 7-days of granting the stay of the writ

Tenant tries to stop a set out after the writ has issued – BEST FOR LEGAL ADVICE

Defendant can file a **Motion to Stay the Writ**. This is a last ditch effort and the motion is rarely granted.

Explain:

- Only affects whether you have to leave, nothing about money
- May have a bond of 1 month's rent. If the case is lost, the bond is usually lost too
- Filing the motion does not usually buy much, if any time. They are heard very quickly.
- These are very rarely granted.

Process:

- Tenant can file only after writ has issued
- Tenant fills out **Motion to Stay the Writ** with any accompanying evidence
- Tenants waits while we walk the form to the room clerk or Stephanie (the courtroom clerk supervisor)
- A judge will review and give a decision usually while the person waits.

2nd Cause Answers & Counterclaims

1) Disclaimer- Sign terms of service & intake sheet

- Ask to sign the terms of service and fill in top portion of the intake sheet
- I am a law student, not attorney
- I cannot give you legal advice. I can't tell you what you should do or what to write.
- I can give you information about the law, the legal process and how to fill out legal forms.
- If a legal question arises, I will consult with an attorney

2) Overview- Give Legal Aid Guide to Evictions (last page is answers)

- Use back page of Legal Aid evictions handout to explain 1st & 2nd Cause and answers/CC's
- \$5 filing fee for answer/ \$25 filing fee for answer & counterclaim
- Filing an answer protects your ability to defend yourself. You still can settle the case with the other side.
- After you file an answer, you will be mailed a trial date—Do they need to change their address?

3) Has defendant been sued for and served with 2nd cause?

- Check complaint to verify that person has been sued for 2nd cause
- Check whether person has been served with 2nd cause.
- Generally, if the only service listed in the case history is “posted,” the person hasn't been served with 2nd cause. If not served, person has a choice between waiting 1 year from filing for the 2nd cause to be dismissed (if no service in that time) or filing an answer that would waive service.

4) In time to file answer and counterclaim?

- Look up case and check the date of service
- If more than 28 days has passed since the completion of service, the person will need to accompany their answer/counterclaim with a **Motion for Leave to File an Answer Out of Time**

5) Fill out model answer/counterclaim-

- Things claimed in answer and counterclaimed must be proved in court

6) Report back to HC attorney if available

- Bring the answer/counterclaim, any questions and potential issues

7) Give next steps

- Court will mail a trial date- Do they need to change their address?
- You will need to prove the things you said in your answer/counterclaim if the case goes to trial.
- If you would like help preparing for your hearing, you can schedule an appointment to go over your evidence.
- You can always settle the case with the other side.

8) Finalizing filing, survey and intake sheet

- Make copies and ask person to do survey
- Send person to room 115 to file complaint
- Fill out the bottom section of the intake sheet

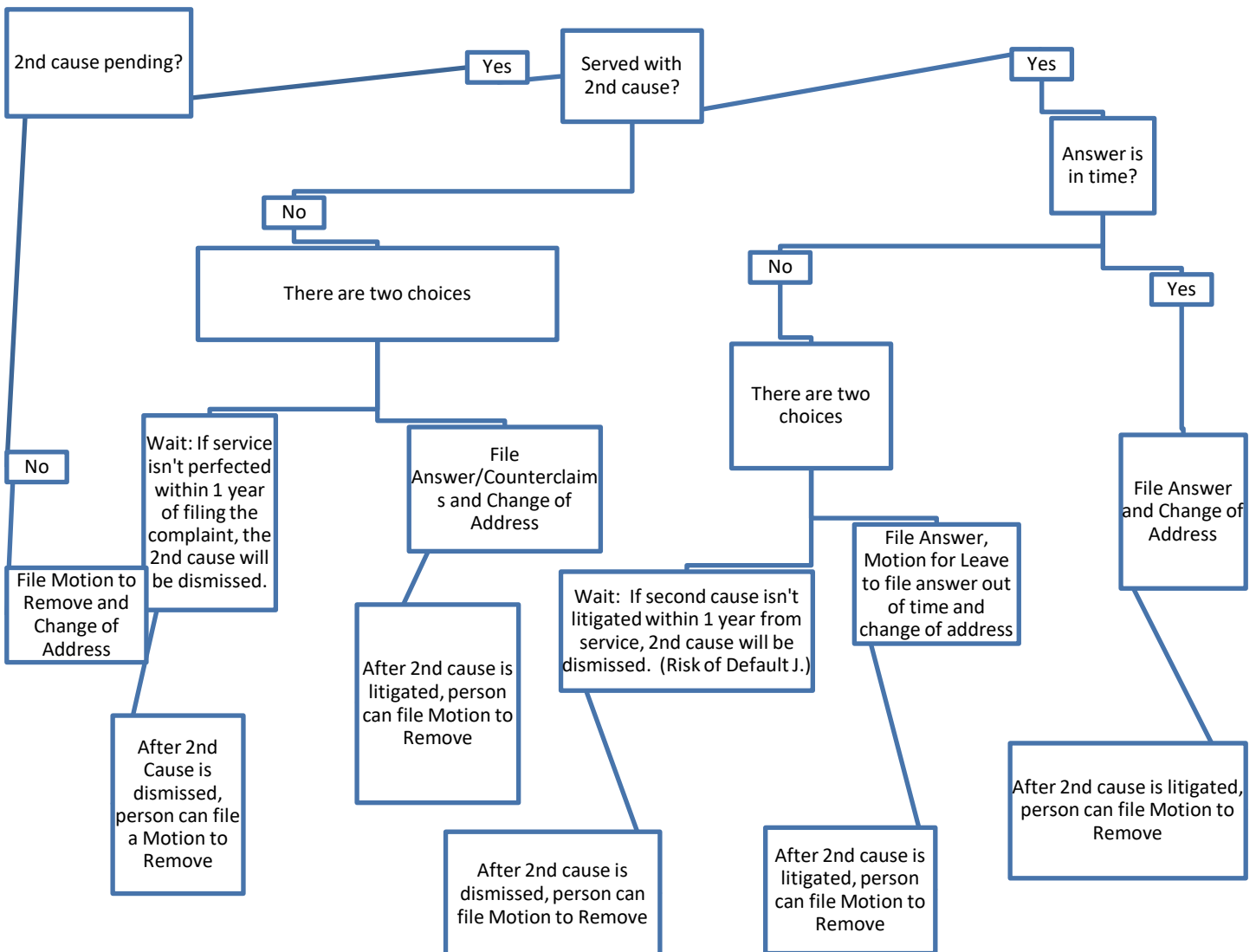
Motion to Remove From Clerk's Website

Intro

A Motion to Remove from Clerk's Website, does not make the eviction record nonpublic, but removes it from the Clerk's website. This practically makes it less likely it will be seen. There are no legal guidelines for these motions, but we have learned some things from speaking with the magistrates and looking at case outcomes:

- If 2nd cause is still pending or a judgment is unpaid, there is very low chance of it being granted. People consider taking care of 2nd cause first before filing.
- People often do not show up to hearing. Important to make sure person changes address for every case they want to remove.
- If 1st cause was granted against the tenant, it is less likely, but not impossible for them to be granted.

Filing a Motion to Remove from Clerk's Website



1) 2nd cause pending?

- Sued for 2nd cause?

Case Number:	19CV21929
Court:	Municipal Civil
Case Caption:	1740 BISING LLC vs. OMNA ROLLEY
Judge:	Unavailable
Filed Date:	09/03/2019
Case Type:	G2-EVICTION
Amount:	

G1=NO
G2=YES

- Has 2nd cause been dismissed or decided?

Examples of 1st cause dismissed and 2nd cause NOT DISMISSED

ENTRY DISMISSING FIRST CAUSE OF ACTION WITHOUT PREJUDICE AT PLAINTIFF'S COST. SECOND CAUSE OF ACTION CONTINUED FOR ANSWER OR DEFAULT JUDGMENT JUDGE: FANON A RUCKER MAGISTRATE:

Examples of dismissals of 2nd cause

ENTRY OF DISMISSAL WITHOUT PREJUDICE AT PLAINTIFF'S COSTS FOR WANT OF PROSECUTION. JUDGE: BERNAT/RICHARD

THIS ACTION IS HEREBY DISMISSED WITHOUT PREJUDICE AT PLAINTIFF'S COSTS. JUDGE: MAGISTRATE: TIMOTHY DEARDORFF

Examples decided 2nd cause

ENTRY APPROVING MAGISTRATE'S DECISION JUDGMENT FOR DEFENDANT. JUDGE: HEATHER S RUSSELL FINAL APPEALABLE ORDER MAILED TO PARTIES

2) Served with 2nd cause?

- Defendant has 28 day to answer after served with 2nd cause.
- Posted service alone does not count for 2nd cause.
- If filing outside of 28 day window, must file a ***Motion for Leave to File an Answer Out of Time*** and an ***Answer***.
- Counterclaims*** can also be filed.
- If person has moved, file a ***Change of Address***.

Service type	1 st	2 nd	Example
Posted	X		08/13/2019 SERVICE OF SUMMONS BY DEPUTY BAILIFF POSTED DATE POSTED: 08-13-19 ADDRESSEE: CHRIS STULLIS SERVED BY: KENNETH BRINKMEYER
Residential	X	X	SERVICE OF SUMMONS BY DEPUTY BAILIFF RESIDENCE DATE SERVED: 08-12-19 ADDRESSEE: PAUL PENN SERVED BY: KIM FLETCHER LEFT WITH CARETAKER
Personal	X	X	SERVICE OF SUMMONS BY DEPUTY BAILIFF PERSONAL DATE SERVED: 08-14-19 ADDRESSEE: DALE WALLER SERVED BY: ROGER MONAHAN
Cert. Authorized agent	X	X	SUMMONS SERVED BY CERTIFIED MAIL DATE SERVED: 09-13-18 ADDRESSEE: CARL RALSTON AUTHORIZED AGENT [CERTIFIED MAIL NBR.: 7194 5168 6312 5650 9563]
Cert. failed Unclaimed (regular mail sent)	X	X	FAILURE OF CERTIFIED MAIL SERVICE UNCLAIMED SUMMONS RETURNED ON 08-27-19 ADDRESSEE: DARIUOS BOBO ORDINARY MAIL ISSUED. CERT OF MAILING FILED. ANSWER DATE FOR 2ND & 3RD CAUSE ONLY: 09-24-19 [CERTIFIED MAIL NBR.: 7194 5168 6312 5682 4383]

Cert. failed Refused (regular mail sent)	X	X	FAILURE OF CERTIFIED MAIL SERVICE REFUSED SUMMONS RETURNED ON 09-12-19 ADDRESSEE: A SAVANNAH NITE LIMO SERV ORDINARY MAIL ISSUED. CERT OF MAILING FILED APPEARANCE AND ANSWER DATE: 09-30-19 [CERTIFIED MAIL NBR.: 7194 5168 6312 5685 0528]
Cert. failed any other reason			FAILURE OF CERTIFIED MAIL SERVICE NOT DELIVERABLE AS ADDRESSED SUMMONS RETURNED ON 08-08-19 ADDRESSEE: DARLENE BOOKER POWELL ADDRESSEE: [CERTIFIED MAIL NBR.: 7194 5168 6312 5680 6853] FAILURE OF CERTIFIED MAIL SERVICE OTHER SUMMONS RETURNED ON 07-22-19 ADDRESSEE: WILLIE K JOHNSON ADDRESSEE: INSUFFICIENT ADDRESS [CERTIFIED MAIL NBR.: 7194 5168 6312 5679 3368]

3) Filing a Motion to Remove from Clerk’s Website

- If they’ve moved, file a *Change of Address*
- A court date will be mailed to them. Reiterate that they must show up in court.

Forms

Remove from Internet	Motion to remove from the clerk’s website	Original + 2 copies	\$5- regular mail	-Court date mailed out -Make sure tenant has changed address with the court	
				Physical	Front Cabinet –Eviction
				Online Legal Forms	Evictions- Motion to Remove

If a Motion to Remove has previously been denied

- A person can file a **Motion to Set Aside Denial of Motion to Remove from Clerk’s Website**.
- A court date is not automatic so it is important to attach any relevant evidence they want the magistrate to see.
- If they’ve moved, file a *Change of Address*

Forms

Another motion to remove If previously denied	Motion to set aside motion to remove from the clerk’s website	Original + 2 copies	\$5- regular mail	-Court date not automatically given -Make sure tenant has changed address with the court	
				Physical	Front Cabinet –Eviction
				Online Legal Forms	Evictions- Motion to Remove

DEBT COLLECTION AND CIVIL LITIGATION

Overview

Filing an answer

Defendant's Guide to Debt Collection Answers

Guide to Discovery

Guide to Summary Judgment

Motions to Set Aside- 60(B)

OVERVIEW

Debt collection cases, unlike small claims or evictions, apply the rules of civil procedure in a straight forward way. As such, this section applies to both debt collection cases, which are common at the HC, and to other cases in the general division of the Municipal Court. Since the Rules of Civil Procedure and Evidence apply strictly, unrepresented people often fall into procedural traps. The next sections provide guides to the most common challenges to unrepresented people in these cases. You can use the guides as a visual tool in your conversations with HC visitors: understanding the process and filing an answer

- Answers
- Discovery
- Summary Judgment
- Setting aside judgments- 60(B)

Debt Collection Answers

Why file an answer?

If you don't file an answer within 28 days of receiving the plaintiff's complaint, they could get a "default judgment" and be awarded the whole amount automatically.

Filing an answer is just the start

An answer starts a long and complicated court process. Debt collection cases are complicated.

If you receive something you don't understand, get legal help right away.

Court process

Answer: Stating your legal defense to what the debt collector says in the complaint.

Case Management Conference: In some cases, the Court will set a time to discuss the case and set a date for the trial.

Discovery: Discovery allows both parties to get information from each other. If you do not respond to discovery within 28 days, you could lose the case.

Summary Judgment: If you do not respond to discovery or if the debt collector claims there are "no issues of material fact" in the case, they can file for summary judgment and ask the Court to award a judgment without having a trial.

Trial: Few cases actually go to trial. At the trial, the debt collector will need to prove that you owe them money, and you can present defenses. Before considering whether to go to trial, get legal help.

What Could Happen

Settle with the debt collector

- Agreement between you and the debt collector
- Can be for a payment plan or lower amount
- Should be in writing and signed by both parties.

You miss deadlines or don't follow court rules

- You could lose and owe the whole amount
- Harder to settle after you lost
- If you receive something you don't understand, get legal help.

Debt collector dismisses case

- This could happen, but it's hard to predict when.

Trial

- Debt collector only has to prove you owe money and haven't paid.

Bankruptcy

- Usually stops a lawsuit for the same debt.
- Bankruptcy is serious.
- Consult a bankruptcy attorney.

Look up your case online at www.courtclerk.org

Choose Record search by name or case number

IN THE MUNICIPAL COURT
HAMILTON COUNTY, OHIO

Plaintiff Name : Case No. Case Number
Plaintiff, :
v. :
Your Name : ANSWER
Defendant. :

Defendant Your Name, states his/her answer as follows:

I **admit** the allegations contained in the following paragraphs of P
1,2,4 (List the number of the paragraph only)
Things that are admitted cannot be taken back

I **deny** the allegations contained in the following paragraphs of P
4, 5, 7 (List the number of the paragraph only)
If you deny something, you can change your mind and admit it later.

I **do not have enough information to answer** the allegations con
Plaintiff's Complaint:
6, 8, 9 (List the number of the paragraph only)

I deny all allegations not specifically admitted herein.

DEFENSES

I have the following defenses:

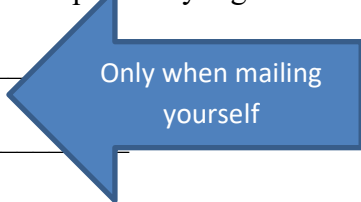
- The amount the Plaintiff says I owe is incorrect.
- The Plaintiff is not the correct owner of the debt.
- I am not the correct Defendant and do not owe the Plaintiff anyt
-


- Look at the complaint.
- Each paragraph will be numbered.
- Decide whether you **admit**, **deny** or **don't have enough information to answer** each numbered paragraph.
- List each paragraph number where it belongs.

Check mark the defenses that apply to you and/or write in your own defenses

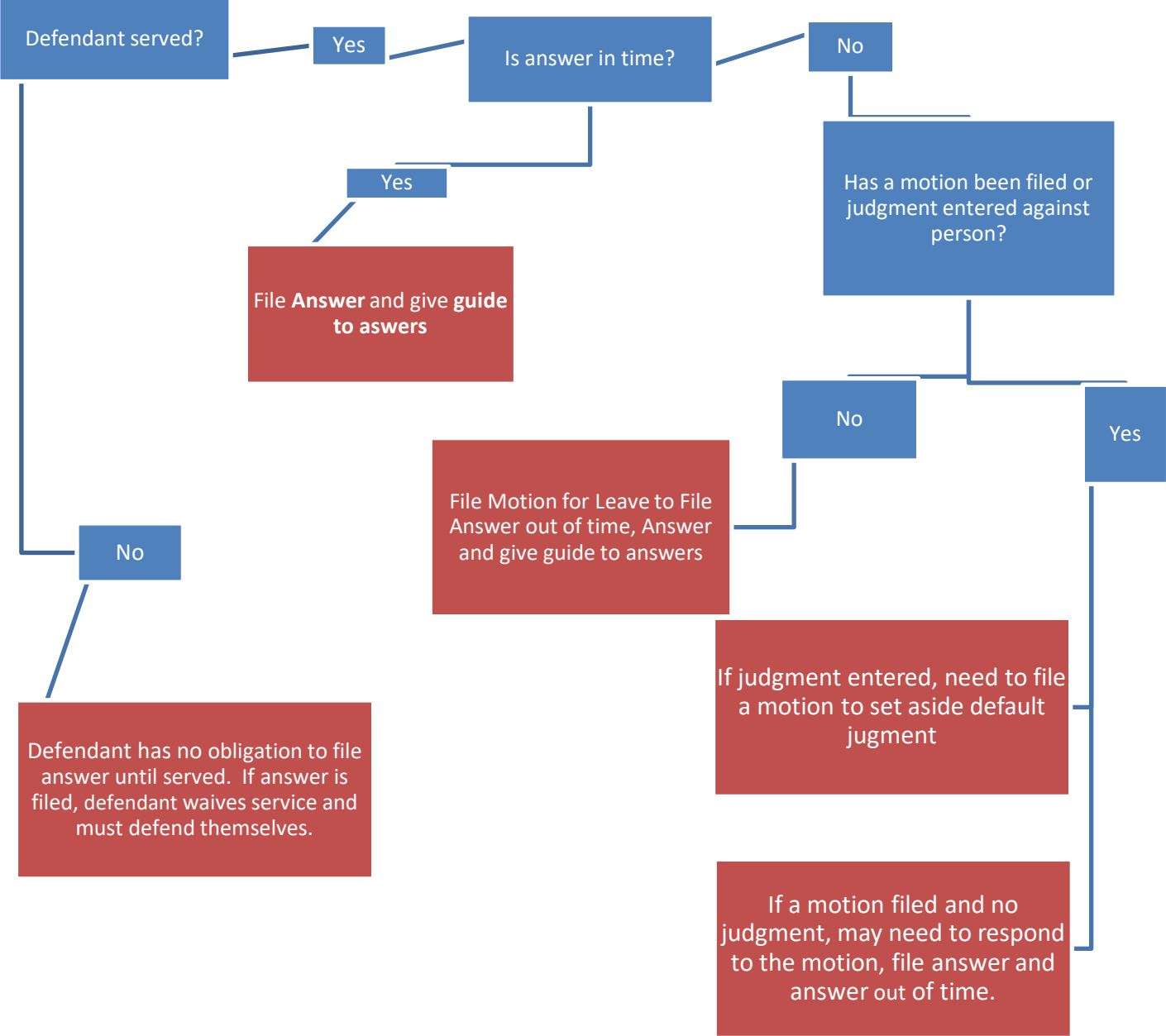
Filing fee: \$5. This pays for the Clerk to mail a copy to the debt collector attorney. If you want to mail it yourself, filing at the Clerk is free.

I hereby certify that a true copy of the forgoing was sent to all entitled parties by regular U.S. mail by:

Date _____
By _____


Signature _____
Date _____


Filing an answer



1) Is defendant served?

Service type	Served ?	Example
Residential	Yes	SERVICE OF SUMMONS BY DEPUTY BAILIFF: RESIDENCE DATE SERVED: 08-12-19 ADDRESSEE: PAUL PENN SERVED BY: KIM FLETCHER LEFT WITH CARETAKER
Personal	Yes	SERVICE OF SUMMONS BY DEPUTY BAILIFF: PERSONAL DATE SERVED: 08-14-19 ADDRESSEE: DALE WALLER SERVED BY: ROGER MONAHAN
Cert. Authorized agent	Yes	SUMMONS SERVED BY CERTIFIED MAIL DATE SERVED: 09-13-18 ADDRESSEE: CARL RALSTON AUTHORIZED AGENT [CERTIFIED MAIL NBR.: 7194 5168 6312 5650 9563]
Cert. failed Unclaimed (regular mail sent)	Yes	FAILURE OF CERTIFIED MAIL SERVICE UNCLAIMED SUMMONS RETURNED ON 08-27-19 ADDRESSEE: DARIUOS BOBOSUM ORDINARY MAIL ISSUED. CERT OF MAILING FILED. ANSWER DATE FOR 2ND & 3RD CAUSE ONLY: 09-24-19 [CERTIFIED MAIL NBR.: 7194 5168 6312 5682 4383]
Cert. failed Refused (regular mail sent)	Yes	FAILURE OF CERTIFIED MAIL SERVICE REFUSED SUMMONS RETURNED ON 09-12-19 ADDRESSEE: A SAVANNAH NIT LIMO SERV ORDINARY MAIL ISSUED. CERT OF MAILING FILED APPEARANCE AND ANSWER DATE: 09-30-19 [CERTIFIED MAIL NBR.: 7194 5168 6312 5685 0528]
Cert. failed any other reason	No	FAILURE OF CERTIFIED MAIL SERVICE CE NOT DELIVERABLE AS ADDRESSEE SUMMONS RETURNED ON 08-08-19 ADDRESSEE: DARLENE BOOKER POWELL ADDRESSEE: [CERTIFIED MAIL NBR.: 7194 5168 6312 5680 6853] FAILURE OF CERTIFIED MAIL SERVICE OTHER SUMMONS RETURNED ON 07-22-19 ADDRESSEE: WILLIE K JOHNSON ADDRESSEE: INSUFFICIENT ADDRESS [CERTIFIED MAIL NBR.: 7194 5168 6312 5679 3368]

2) Answer in time?

- Defendant has 28 days from day of service to file an answer.

3) Motion filed or judgment against person?

- Judgment entered?

MOTION FOR DEFAULT JUDGMENT FILED. DEFAULT JUDGMENT FOR PLAINTIFF FOR \$ 851.00 INTEREST \$ 600.10 AND COSTS. DATE SIGNED: 12-10-18 JUDGE: DWANE MALLORY

- Motion filed without judgment being entered

MOTION FOR DEFAULT JUDGMENT FILED.

DISCOVERY- Debt Collection Cases

What you need to know about discovery?

Discovery is a process to find out more about the other side's case before trial takes place. Each party can ask for discovery from the other side. The most common methods of discovery are **interrogatories, production of documents, request for admissions.**

1. **Interrogatories** are written questions asked by the other party for you to answer under oath.¹
2. **Production of Documents** is a method of obtaining documents from the other party relevant to the case.²
3. **Request for Admission** are requests from one party to another to admit or deny certain claims in the case.³

What you need to do if you receive requests for discovery?

First, you must respond to the discovery requests. You should respond carefully because it may be used against you in the case. Your responses should be mailed directly to the other side. **Keep a copy of your responses and proof that it was mailed.**

Unless otherwise stated in the request, you have **28 days to respond from the date you served with the request.** If you do not respond you may lose the case.

- 1) **Interrogatories:** You must answer each question separately in writing. If you object to a request, you must explain why and have answers sworn and notarized. Interrogatories are open-ended questions. If you don't have the answer or partially know it, then you must state that you did your best to find the answer but could not find it.

Question: Did you sign a retail installment contract and security agreement?

Sample Answer: Yes.

- 2) **Production of Documents:** A typical request contains several separate, numbered requests asking you to produce documents that you have. The type of document requested depends on the facts of the case. For example, in a car accident case, other party may ask you to produce auto liability insurance, or pictures or diagrams of the place where the accident occurred. If you have the documents, then you must give it to the other party.

Sample Request: Any and all documents of any nature whatsoever which refer in any way to the incident described in Plaintiff(s) Complaint and/or the facts or circumstances leading up to and following said incident.

¹ Ohio Rule of Civil Procedure 33.

² Ohio Rule of Civil Procedure 34.

³ Ohio Rule of Civil Procedure 36.

Sample Answer: “See attached” (and attach the documents) **OR** if you do not have the documents;

“I am not in the possession, custody or control of any documents responsive to this request.”

- 3) Request for Admissions:** Requests for admission ask you to either admit or deny various facts prepared by the other side. If you admit the fact, you will write “Admit” under the question. If you deny it however, you will put “Deny”. If you leave it blank or fail to send your answers within the deadline then you will be deemed to admit the fact. You can also explain that you deny a part and admit another part of a statement. You cannot cite lack of information or knowledge as a reason unless you state that you made reasonable efforts to find the answer.

Request 1: Defendant signed a Retail Installment Contract for the purchase of a 2000 ABC vehicle from XYZ Inc.

Sample Answer: Admit/Deny.

You can also request discovery from the other side?

You can start the discovery process **on any other party** after they are served with the summons and complaint. You must mail your request to the other party. **Keep a copy of the request and proof that it was mailed.**

- 1) Interrogatories:** You can serve the other party up to 40 written questions unless there is a court permit that allows you to send more. Any subpart that you put under an interrogatory will be treated as a separate interrogatory.

Sample Question: What are the names, addresses and telephone numbers of all persons who will be called by you as witnesses in the trial of this case?

Answer:

- 2) Production of Documents:** You can ask the other party **to produce** documents such as; writings, photographs, sound recordings, images etc. (e.g. tape recordings, telephone calls or surveillance videos) or **to inspect** any tangible things (e.g. damaged car after car accident).

Once you send request, the other party will have an affirmative duty to protect the documents that you asked. So, the early you ask the more chance you have, to preserve the evidence.

Sample Request: Copies of any and all reports and records prepared by any physician, hospital or healthcare provider who has examined Plaintiff(s) excluding those actually provided by counsel for Plaintiff.

Answer:

3) Requests for Admissions: The aim of this tool is to reduce controversies between the parties. You must put your requests in numbered paragraphs and leave a blank space under it.

Sample Request: Defendant owes the plaintiff \$2000 as a result of the default on the contract.

Answer:

If they don't respond your request, then you may file a **motion to compel discovery** with the court.

Unless you sign a settlement agreement with the other party, deadlines for filing for answers to interrogatories, request for admissions and production of documents will not stop!

THE HAMILTON COUNTY MUNICIPAL COURT, OHIO

_____, :
Plaintiff, :
v. : Case No.
_____, :
Defendant, :

**DEFENDANT’S FIRST SET OF WRITTEN INTERROGATORIES, REQUESTS FOR PRODUCTION
OF DOCUMENTS AND REQUESTS FOR ADMISSIONS**

(NOTE: This Document contains Requests for Admissions)

Now comes, _____, pro se, and pursuant to Rules 33 and 34 of the Ohio Rules of Civil Procedure propounds the following Interrogatories, Request for Production of Documents, and Requests for Admissions to Plaintiff to be answered within twenty-eight (28) days after the date of service. Plaintiff is under a duty to supplement its responses in accordance with Rule 26 (E).

INSTRUCTIONS

1. Pursuant to Civ. R. 33, 34, and 36, Plaintiff must furnish such information as is known or available to him and such documents which are in his possession or available to him.
2. Each Interrogatory must be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer.
3. An evasive or incomplete answer will be deemed a failure to answer under Civ. R. 37.
4. Plaintiff is under a continuing duty to seasonably supplement his responses with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity and location of documents relating to the subject matter of the instant lawsuit, the identity of each person expected to be called as a witness at hearing and/or trial and the subject matter on which the witness is expected to testify. Furthermore, Plaintiff is under a duty to seasonably correct any response that he knows or later learns is incorrect.
5. If any document was, but is no longer in the possession of Plaintiff, or subject to his control, or is no longer in existence, state whether it (1) is missing or lost; (2) has been destroyed; (3) has been transmitted or transferred voluntarily or involuntarily to others, identifying such others; or (4) has been otherwise disposed of. In each such instance, explain the circumstances surrounding the authorization for such

disposition and state the date or approximate date thereof. If any of the above information is not available to Defendant, provide any available information with or by which such documents can be identified.

6. In the event that you have an objection to any of the foregoing Interrogatories or Request for Production of Documents, please: (1) State the nature of the objection; and (2) if the ground is attorney-client privilege or attorney work-product, state the facts relied upon in support of the objection.
7. For all documents withheld for any claimed privilege, please prepare a privileged log for all documents withheld, including the following information: (1) the date of the document; (2) the author of the document; (3) the recipient of the document; (4) the general subject matter; and (5) the privilege asserted.

INTERROGATORIES

1. State the full name, position, business and residence address of the person(s) answering these Interrogatories and excluding the typist and clerical help, the person(s) prepared and assisting in the preparation of the answers.

ANSWER:

2. How much did Plaintiff pay to acquire the debt in question in this case?

ANSWER:

3. _____

_____.

ANSWER:

4. _____

_____.

ANSWER:

5. _____

_____.

ANSWER:

6. _____

_____.

ANSWER:

7. _____

_____.

ANSWER:

DEFENDANT’S REQUEST FOR ADMISSIONS TO PLAINTIFF

Defendant requests plaintiff admit the truth of each of the statement hereinafter stated.

REQUEST #1: Plaintiff does not hold chain of title to the debt in question in this case.

Answer:

REQUEST #2: Plaintiff did not send a notice of assignment to the Defendant.

Answer:

REQUEST #3: Plaintiff cannot prove it owns the debt for any default on the account at question in this case.

Answer:

REQUEST #4: Plaintiff does not have a copy of the credit agreement signed by Defendant concerning the Original Creditor account referred to in Plaintiff’s complaint.

Answer:

REQUEST #5: Admit Plaintiff has no documentation showing the assignment of any debt by Original Creditor for the debt allegedly held by Plaintiff in its complaint.

Answer:

REQUEST #6: Admit Plaintiff does not have copies of all account statements from opening until the present, with regard to the Original Creditor account referred to in Plaintiff's complaint.

Answer:

REQUEST #7: Admit Plaintiff cannot prove a creditor-debtor relationship between itself and Defendant with regard to the Original Creditor account referred to in Plaintiff's complaint.

Answer:

REQUEST #8: Admit Plaintiff cannot prove its claim against Defendant for monies allegedly owed on the Original Creditor account referenced in Plaintiff's complaint.

Answer:

REQUEST#9: _____

_____.

Answer:

REQUEST#10: _____

_____.

Answer:

REQUEST#11: _____

_____.

Answer:

DEFENDANT’S REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF

Defendant, _____ requests that Plaintiff, _____, produce the following documents in connection with this matter. If objection is made, please state the reason for objection. If denying the matter, please set forth in detail the reasons why the answering party cannot produce such documentation.

REQUESTS

1. All documents showing chain of title of the debt at question in this case, that Plaintiff has, including all documents proving Plaintiff’s ownership of the debt, showing my account in specific.

2. All documents related to correspondence related to the Plaintiff’s correspondence with me.

3. The bill of sale showing Plaintiff’s acquisition of the debt, showing my account in specific, including price paid.

4. _____

_____.

5. _____

_____.

6. _____

_____.

7. _____

_____.

Responding to a Motion for Summary Judgment

What is a Summary Judgement?

Summary judgement is a step where the court can make a judgement without having a trial. Summary Judgement is controlled by Ohio Rule of Civil Procedure 56. Either party can ask for a summary judgement in their favor. The court can grant summary judgment if it finds that there are “no issues of material fact” in the case. This means that neither side is arguing about facts of the case (what actually happened). Since there is no disagreement about the facts, summary judgement allows the court to make a ruling based on what is “on paper” in the case without having a full trial. The summary judgement will be granted for one party if the court decides there are no issues of material fact and the written pleadings prove the case.

Opposing Summary Judgement

If a motion for summary judgement has been filed against you, it is important to respond. An opposition must be filed within 28 days after the service of the motion for summary judgment. An opposition will generally explain why there are issues of material fact where the parties disagree about what actually happened. If summary judgement is not granted in part or full, a trial will be necessary to hear any part of the claim that is undecided.

How to File an Opposition to a Motion for Summary Judgement

The Help Center has created a model filing that you can use to help respond to a motion for summary judgement. There are three parts to an opposition to summary judgement:

1. Read the other party’s motion for summary judgement, because this is what you are responding to.
2. You must draft arguments responding specifically to the pleadings, evidence, and written fact stated in the summary judgement. These arguments should be short and concise; they must address the arguments of the motion for summary judgement.
3. An affidavit must be attached to the motion opposing summary judgement. The affidavit is a written sworn statement used as evidence in court that everything you stated in your motion is true as you know it. An affidavit must be notarized prior to filing.

**IN THE MUNICIPAL COURT
HAMILTON COUNTY, OHIO**

_____ : Case No. _____
Plaintiff, :
v. :
_____ : **OPPOSITION TO MOTION FOR**
Defendant. : **SUMMARY JUDGEMENT** :
:

..... :
Now comes, _____, pro se, responding to Plaintiff's Motion for Summary Judgement pursuant to Ohio Civ. R. 56 (b). Inferences to be drawn from the underlying facts contained in affidavits and other exhibits must be viewed in the light most favorable to the party opposing the motion [for summary judgement], and if when so viewed reasonable minds can come to differing conclusions the motion should be overruled.

There are issues of material fact in this case for the following reasons:

For the aforementioned reasons, I ask this Court to deny the motion for summary judgement entered against me. An affidavit in support of this opposition is attached as Exhibit A.

I hereby certify that a true copy of the forgoing was sent to all entitled parties by regular U.S. mail by:

Date _____ Signature _____
By _____ Date _____

AFFIDAVIT

.....:

I, _____, being first duly cautioned and sworn, state that the following is true and correct to the best of my knowledge and belief.

Multiple horizontal lines for writing the affidavit content.

Signature

SWORN TO BEFORE ME, and subscribed in my presence this _____ day of _____, 20____.

Notary Public

My commission expires _____

Can I challenge a default judgment in court?

WHAT IS A DEFAULT JUDGMENT?

A default judgment happens when the court awards money against you because you did not do something required in a lawsuit. For example:

- You did not show up for your small claims trial;
- You did not file a written “Answer” to the money part of an eviction case;
- You did not file a written “Answer” to other kinds of lawsuits.

Do I owe a default judgment?

Yes. The judgment is a legally-enforceable final decision for the amount awarded to the other side.

Can a creditor use a Default Judgment to garnish my wages or attach my bank account?

Yes.

Can I ask the court to reverse a default judgment?

Yes. You can file a motion to “set aside” (throw out) the judgment.

What is a “Motion”?

A “motion” is a request for the judge to do something.

Does the court have to set aside a judgment?

No. It is up to the judge to decide whether you deserve to cancel the judgment and allow you to defend the case.

Will filing this motion stop a garnishment?

No. A garnishment would not stop unless the judge agrees to set aside the judgment.

What do I file?

You can file a Motion to Set Aside Default Judgment. A sample motion you can use is included with this packet.

How soon do I have to file a motion to set aside the judgment?

The sooner the better. The rules make it harder to set aside a judgment that is more than one-year old.

Can the plaintiff oppose my motion?

Yes. The court can consider both your side and the opposing party’s side.

Will I have a chance to argue my motion in court?

Probably not. The judge may simply read your motion and mail you the decision.

What happens if the court sets aside the judgment?

Setting aside a default judgment is just the beginning. Once the judgment is set aside, you are in the same position you were when the case started. You will need to file an answer, or appear at a small claims hearing. You may also file counterclaims. There will be deadlines, so you will need to act quickly.

If the court doesn’t set aside the judgment, are there other legal options to challenge the judgment?

Probably not. You should get legal guidance to explore your options, which might include making payment arrangements or bankruptcy.

WHAT DO I NEED TO FILE?

- 1) This guide includes a sample **motion** you can use
- 2) You need to attach an **affidavit** (a sworn statement signed in the presence of a notary) that restates and swears that the things you say in the motion are true and any **other evidence** that supports what you say in the motion.

What do I need to prove for the court to set aside the judgment?

- 1) That the motion is timely: Either less than a year from the judgment or at a reasonable time
- 2) That you have a good reason for not answering the lawsuit or showing up for court
- 3) That you have a defense in the case

For what reasons can the court set aside a default judgment?

Ohio Rule of Civil Procedure 60(B) **allows** (but does not require) the court to set aside a judgment for one of the following reasons:

If less than one year since the judgment	
1. Mistake, inadvertence, surprise, or excusable neglect	The judge will consider the surrounding facts and circumstances presented by you. Lack of understanding of proper legal procedure alone is not considered a good reason. Additionally, “mistake” does not include legal errors by the judge or magistrate, as such decisions should be appealed.
2. Newly-discovered evidence	If new evidence is discovered, the court may set aside judgment <i>only if</i> the evidence could not have been discovered due by due diligence within 28 days after the judgment.
3. Misconduct of adverse party	Fraud, misrepresentation or other misconduct of the other party. There must be clear and convincing evidence to prove this.
If the motion comes at a reasonable time (more than one year since the judgment)	
4. Satisfaction of judgment or reverse of prior judgment	The court may set aside judgment if it has already been paid before the case was filed or if the judgment is related to a previous judgment that is reversed or vacated by the court.
5. Any other reason justifying relief from the judgment	This final reason is used <i>very rarely</i> applies when there is strong evidence that a judgment would be unjust if it is not set aside. This section is not available as a substitute for the other reasons listed above when the one-year time limit expired.

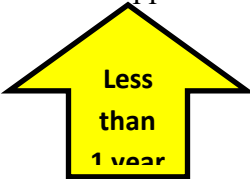
SAMPLE

IN THE MUNICIPAL COURT HAMILTON COUNTY, OHIO

Other Party's Name : Case No. Your case number
 Plaintiff, :
 v. :
 :
Your Name : **Motion to Set Aside Default Judgment**
 Defendant. :
 :
 :

Defendant, Your Name, pro se, moves to set aside the default judgment pursuant to Ohio Civ. R. 60(B). Where timely relief is sought from a default judgment and the movant has a meritorious defense, any doubt should be resolved in favor of the motion to set aside so that the case may be decided on the merits.

1) It has **not been more than one year since the judgment**, and, one of more of the following applies:



- Civ. R. 60(B)(1) mistake, inadvertence, surprise or excusable neglect;
- Civ. R. 60(B)(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(B);

Mark the reason why the judgment should be set aside that applies to you

Civ. R. 60(B)(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party;



- This motion **comes at a reasonable time** and one of the following applies:
 - Civ. R. 60(B)(4) the judgment has been satisfied, released or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
 - Civ. R. 60(B)(5) any other reason justifying relief from the judgment.

This motion comes at a **reasonable time** because:

_____ **If you claim the motion comes at a reasonable time, explain why you are filing at a reasonable time. If it has not been more than a year since the judgment, you can write "not applicable" here.** _____

2) I am **entitled to relief identified above** because:

_____ Explain why you have a good reason for _____
_____ not answering the lawsuit or for not _____
_____ showing up at a required hearing. _____

3) My **meritorious defense** in this cause is as follows:

_____ Briefly explain your defense in the case _____

For the above reasons, I ask the Court to set aside the judgment entered against me. An affidavit is attached to this motion as Exhibit A.

I hereby certify that a true copy of the forgoing was sent to all entitled parties by regular U.S. mail by:

Date _____

Signature Sign here

By _____

Date Date

EXHIBIT A

AFFIDAVIT

.....:

I, Your name, being first duly cautioned and sworn, state that the following is true and correct to the best of my knowledge and belief.

_____ Write every fact that you say in the other _____

_____ parts of this motion. It may be repetitive, _____

_____ but you need to attach a sworn _____

_____ statement laying out every fact you say. _____

Sign in the presence of a notary

Signature

SWORN TO BEFORE ME, and subscribed in my presence this _____ day of _____, 20____.

Notary Public

My commission expires _____.

IN THE MUNICIPAL COURT

HAMILTON COUNTY, OHIO

_____	:	Case No. _____
Plaintiff,	:	
v.	:	
	:	
	:	<u>Motion to Set Aside Default Judgment</u>
_____	:	
Defendant.	:	
.....	:	

Defendant _____, pro se, moves to set aside the default judgment pursuant to Ohio Civ. R. 60(B). Where timely relief is sought from a default judgment and the movant has a meritorious defense, any doubt should be resolved in favor of the motion to set aside so that the case may be decided on the merits.

- 1) It has **not been more than one year after the judgment**, and, one of more of the following applies:
- Civ. R. 60(B)(1) mistake, inadvertence, surprise or excusable neglect;
 - Civ. R. 60(B)(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(B);
 - Civ. R. 60(B)(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party;
- This motion **comes at a reasonable time** and one of the following applies:
- Civ. R. 60(B)(4) the judgment has been satisfied, released or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
 - Civ. R. 60(B)(5) any other reason justifying relief from the judgment.

This motion comes at a **reasonable time** because:

2) I am **entitled to relief identified above** because:

RENT ESCROW

Legal Aid Guide to Filing Rent Escrow

After filing Guide to Rent Escrow

I Paid My Rent Into Escrow. Now What?

What is rent escrow?

Rent escrow allows a tenant to pay rent into court to force a landlord to make repairs on health and safety concerns that have not been fixed.

What should I do after I put my rent into escrow?

You must pay your rent into escrow either before or on the day that rent is typically due. If you do not, the landlord may be able to evict you for nonpayment of rent. You may want to contact your landlord about settling the case.

Can I have the property inspected?

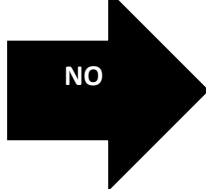
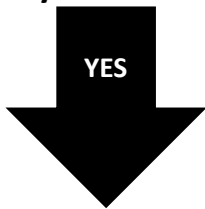
Yes. You can have the property inspected by health or building inspectors

What can I do if I am on a written lease but can't stay because of the conditions?

You can ask the court to terminate your lease by filing a Motion to Terminate the Lease

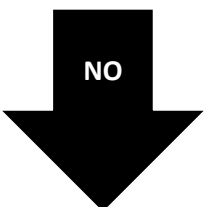
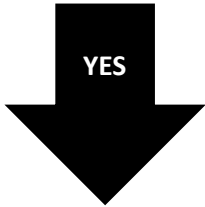
What happens next depends on what your landlord does

Did your landlord fix the conditions?



If your landlord makes repairs, you can file an **Application for the Release of Rent** with the Clerk of Court

Did your landlord file a Rent Escrow Complaint?
If your landlord wants the money from escrow, it would file a Complaint asking for the court to release it.



What if the landlord tries to evict me?
If the landlord files an eviction in court claiming nonpayment of rent, you may have a defense to the eviction if you have properly paid your rent into escrow. You could be evicted for other reasons

ly and is

You are required to file an **Answer** no later than 28 days after you receive the Complaint. An answer is a written response to your landlord's claims. You can also file a **Counterclaim**, if you believe the landlord owes you money. Once you file, you will receive a court date in the mail.

You can file a **Motion to Release Funds to Tenant** asking the Court to release the money to you. Once you file, you will receive a court date in the mail

What happens at a rent escrow hearing?

A rent escrow hearing occurs after a landlord files a rent escrow complaint or the tenant has filed a motion. In any rent escrow hearing, the tenant will have to prove that he/she has met the requirements of escrow. The general structure of a rent escrow hearing is:

- Opening statements for both the tenant and landlord.
- Calling of witnesses and presenting evidence. During this time, both parties will be able to ask questions of witnesses and cross-examine them.
- Closing statements.

What should I bring to court?

You may bring:

- Any photos of conditions of the property. (printed)
- Any videos of the conditions of the property. (On a DVD disk)
- Any documents that can prove that the conditions exist.
- Witnesses, including health/building inspectors- **you may want to subpoena the inspectors.**

Health & Building Inspectors Numbers and Addresses

Cincinnati Health Department: Phone: 513-352-2908 Address: "Healthy Homes Division" 1525 Elm Street, Cincinnati OH, 45202

Cincinnati Property Maintenance Code Enforcement: Phone: 513-352-3275 Address: 805 Central Ave Suite 500, Cincinnati OH, 45202

Look up your case online at www.courtclerk.org.

Choose "**Record search**" by **name** or **case number**.

GARNISHMENTS

Overview

Debtor's guide to Garnishments

Collecting a Judgment guide

Non-Wage Garnishments Guide and Forms

Wage Garnishment Guide and Forms

OVERVIEW

Since most of the cases in the Municipal Civil Division deal with lawsuits for money, it is not surprising that collections is an issue where pro se litigants often need help. Once the judgment has been awarded, the winning party becomes a **judgment creditor**, and the losing party becomes **judgment debtor**. No court automatically forces a judgment debtor to pay. The court has confirmed that the debtor has a legal, enforceable obligation to pay, but it is the creditor's job to collect that debt. After a judgment has been entered, the debtor has 15 days to voluntarily pay the debt before the creditor can take legal action to collect. (19 days is recommended to allow for delays in signing, weekends and holidays).

Debtors: Walk through **Debtor's Guide to Garnishments** with them. Generally, there are 3 ways to address a garnishment: 1) work something out with the other side, 2) try to undo the judgment in court (see Motion to Set Aside Default Judgment (60(B)), or 3) file bankruptcy.

Creditors: Usually won in small claims but sometimes pro se landlords. For all collections, creditor pays upfront and cost is added to the judgment.

- **If they don't know how to collect,** walk through **Guide to Collecting a Judgment**. Generally, garnishments are most effective.
- **Wage Garnishment:** Walk through Wage Garnishment Packet and assist in completing paperwork
- **Non-Wage Garnishment:** Walk through Non-Wage Garnishment Packet and assist in completing paperwork.
- **Other forms of collection:** Refer to the **Forms and Filing list**

Sources

R.C. 2323.51, Chapter 2716, Chapter 2327, Chapter 2329, Chapter 2333, Hamilton County Municipal Court Local Rule of Civil Procedure XX (Fair Debt Collections Practices)

OBJECTING TO THE MAGISTRATE'S DECISION

What is an Objection to the Magistrate's Decision?

If you believe the magistrate made a mistake in your case, you can file an Objection to Magistrate's Decision. The court will independently review the magistrate's decision for mistakes in fact or law and will either affirm or overrule the magistrate's decision. The court MAY hear additional evidence, but may refuse to do so unless you show that you could not have, with reasonable diligence, produced that same evidence for the magistrate to consider. To file an objection, you must follow the steps below.

1) Request Findings of Facts and Conclusions of Law (optional)

A magistrate's decision may be general unless you file a Request for Findings of Facts and Conclusions of Law. The Request must be made within 7 days of the magistrate's decision. The magistrate will write a detailed explanation of the facts and the law upon which the decision was based and file it with the court. You should receive a copy in the mail.

2) File an Objection to the Magistrate's Decision

The Objection to Magistrate's Decision must be filed within 14 days of the Magistrate's decision, or 14 days after the magistrate files the written Findings of Fact and Conclusions of Law. Your objection must be specific and state all errors that you believe exist in the magistrate's decision. Objections to a factual finding must be supported by a transcript or an affidavit if transcript is not available.

3) Request for Transcript of Magistrate's Hearing

You must file a request for transcript with the court within 30 days after filing objections. Generally, the objecting party bears the costs of the transcripts. Fill out a Request for Transcript of Magistrate's Hearing and bring it to room 555 of the courthouse with a \$50 cash deposit for the transcripts.

4) Court Ruling on Objections

The court will take an independent review on the matters objected to and determine whether the magistrate made legal or factual mistakes that would change the ruling. The court may hold another court hearing to hear more from you about the objection. The court can adopt or reject the magistrate's decision or return the case back to the magistrate.

**IN THE MUNICIPAL COURT
HAMILTON COUNTY, OHIO**

_____ : Case No. _____
Plaintiff, :
v. :
_____ :
Defendant. : **Request for Findings of Fact**
: **and Conclusions of Law**
:
..... :

Now comes _____ per Civ.R. 53(D)(3)(a)(ii), and timely request findings of facts and conclusions of law in the above-captioned matter.

I hereby certify that a true copy of the forgoing was sent to all entitled parties by regular U.S. mail by:

Date _____

Signature _____

By _____

Date _____

**IN THE MUNICIPAL COURT
HAMILTON COUNTY, OHIO**

_____ : Case No. _____
Plaintiff, :
v. :
_____ :
Defendant. :
..... :
:

**OBJECTION TO
MAGISTRATE'S DECISION**

Now comes plaintiff / defendant, per Civ. R. 53(D)(3)(b)(i). I have the following objections to
circle one
the magistrate's decision:

I hereby certify that a true copy of the forgoing was sent to all entitled parties by regular U.S. mail by:

Date _____

Signature _____

By _____

Date _____

This guide is intended for information only and is not legal advice.

REQUEST FOR TRANSCRIPT OF MAGISTRATE'S HEARING

Person ordering: _____

Address: _____

Phone Number: _____

Today's Date: _____

Date Transcript is needed: _____

Plaintiff

Case No. _____

Defendant

Hearing Date: _____

Magistrate: _____

Room # _____

PLEASE READ

There is a **\$50.00 CASH DEPOSIT** required at the time of placing a transcript order. **THIS IS ONLY A DEPOSIT.** The \$50.00 is not refundable unless the final cost of producing your transcript is less than \$50.00. The cost of the transcript may be more than \$50.00 depending on the number of pages. The deposit will be deducted from the final cost of the transcript. This deposit is to be attached to the transcript request form. All transcripts must be paid in full at the time of pickup. All transcripts must be picked up within 24 hours of notification of completion.

One transcript will be supplied to you, and one transcript will be filed with the clerk.

Transcripts are payable by cash or money order. Make money order payable to the Court Reporter.

Daniel T. Neumeister, Room 555
Chief Court Reporter 946-5431

Cash paid to Clerk's Office \$ _____

Cash delivered to RM 555 \$ _____

Signature of person ordering transcript

Signature of Court Reporter, for cash rcv'd