XENIA MUNICIPAL COURT
SMALL CLAIMS DIVISION
101N. DETROIT ST.
XENIA, OHIO 45385
937-376-7289 and 937-376-7297

SMALL CLAIMS INFORMATION PACKET

1. PARTIES

The individual or corporation who initiates an action is known as the PLAINTIFF. The individual or corporation against .whom an action is brought is known as the DEFENDANT. Anyone may file a claim, however, a minor under the age of 18 must bring an action through his/her parent or legal guardian, and a corporation must bring an action through an attorney at law, an officer, or a salaried employee. An officer or salaried employee of a corporation will not be allowed to engage in cross-examination, argument, or other acts of advocacy.

Attention should be given when filing against a business or other organization to determine whether it is INCORPORATED. If the business is incorporated, you must name the exact corporate title of your defendant. One method of determining whether an organization is incorporated is by contacting the Secretary of State Corporations Section to see if your defendant is listed. If the business is not incorporated, you must determine the owner or owners name(s), then file the Complaint against the owners doing business as the name of the business *(example:* John Doe dba John Doe's Plumbing}.

2. JURISDICTION- AMOUNT

The Small Claims Division has jurisdiction over claims FOR THE RECOVERY OF MONEY ONLY, with a maximum allowable recovery of $6,000.00, not including interest and court costs. A Counterclaim may be for any amount of $6,000.00 or less.

The Court likely has jurisdiction over a claim if the defendant lives in or the transaction at issue occurred within the court's territorial jurisdiction, which is all of Greene County EXCEPT Fairborn, Beavercreek, Beavercreek Township and Bath Township, Ohio.

The Small Claims Division does not have jurisdiction over actions for libel, slander, replevin, alienation of affection, malicious prosecution, abuse of process, actions on any claim brought by an assignee, agent, or power of attorney, or actions for punitive or exemplary damages

3. FACTS

Briefly describe what happened. If your property was damaged, describe what it was that was damaged, as well as when and how it happened. If your claim is based upon a contract or agreement with the defendant, describe what you expected from the contract, as well as what the defendant failed to perform for you, and your loss. BE CONCISE AND ACCURATE.

Your claim may be dismissed if essential information is omitted.

4. EVIDENCE

You must provide the Court with copies of all documents (receipts, contracts, checks, etc.) that substantiate your claim and a set for each defendant at the time of trial. The Court will keep no originals. (Example: If you have 1Defendant – you will need 2 sets of Exhibits 1for the Defendant and 1for the Court.)

Although you may prepare and present your case in any manner you see fit, you should have evidence to support your claim. And, although you believe that the defendant owes you a sum of money, to prevail at trial you need to convince the Judge that your claim is valid. As the Plaintiff, you will have the BURDEN OF PROOF AND WILL BE EXPECTED TO PROVE YOUR CASE BY THE GREATER WEIGHT OF EVIDENCE.

Claims for property damage should always be accompanied by estimates of repair or loss. A MINIMUM OF TWO {2) ESTIMATES IS PREFERRED, but you may provide more or less; however, you wish to present your case. Additionally, if damage is to your motor vehicle, YOU MUST PRESENT A CERTIFICATE OF TITLE AS EVIDENCE OF OWNERSHIP TO THE JUDGE.

Written agreements, documents, photographs, and tangible items are evidence as well as is your own testimony and testimony from your witnesses. The clerk will issue subpoenas for witnesses if requested. You must pay the witness fee and file your request at least 14 days prior to your hearing date in order to give the bailiff or sheriff sufficient time to serve the witness with the subpoena. If you file a subpoena request less than 14 days before your trial, the Court cannot assure you that the subpoena will be served in time for your witness to appear.

5. FILING FEE/WITNESS FEES

The filing fee is $100.00 for one Defendant and $25.00 for each additional Defendant. You will be assigned a date for trial upon filing the Complaint.BE SURE TO APPEAR AT THE TRIAL OR YOUR CASE WILL BE DISMISSED. IF YOU SETTLE OUT OF COURT BEFORE THE TRIAL, PLEASE NOTIFY THE SMALL CLAIMS DIVISIONS AND ASK FOR THE CASE TO BE DISMISSED.

The filing fee to file a Counterclaim is $50.00.

Witness fees and mileage must be paid to persons you subpoena to your Trial. The Clerk's Office can tell you the exact amounts. ALL WITNESS FEES AND MILEAGE MUST BE PAID IN FULL AT THE TIME YOU FILE THE PAPERWORK TO SUBPOENA ANYONE TO YOUR TRIAL.

6. SERVICE OF PROCESS

Before your case may come to trial, the Court must have evidence that the defendant has received notice of the Complaint filed against him/her as well as notice of the trial date. In Ohio, the principal method of service is by certified mail. If the certified mail is returned unclaimed or refused, you then may request service by ordinary mail. In the event that there has been a failure to deliver notice to the defendant, the Small Claims Clerk will notify you by mail to obtain a current address of the defendant. THE SMALL CLAIMS DIVISION DOES NOT PROVIDE LOCATOR SERVICE FOR DEFENDANTS WITH AN UNKNOWN ADDRESS.

7. TRANSFER

Just as you have elected to file your claim in the Small Claims Division of the Court rather than in the regular Civil Division, the Defendant has the right to transfer the case out of the Small Claims Division into the Civil Division. The Defendant may do this in order to preserve his/her right to a trial by jury. The Defendant may due this so that the more formal.Rules of Civil Procedure will be applicable.

Once transferred, the case will no longer be on the Small Claims Docket and a new trial date will be scheduled in the Civil Division. When a case is transferred into the Civil Division of the court, the process to move a case to judgment is more involved and the Plaintiff may wish to consult with an attorney. If the Plaintiff/Defendant does not wish to consult with an attorney, it may be in the best interest of the parties to research the legal procedures necessary to go forward in the Civil Division of the Court.

There is a $50.00 filing fee to transfer a case from Small Claims to the regular Civil Division. The Court cannot provide the required forms for a transfer. A party may wish to consult with an attorney regarding transferring a case from Small Claims Court.

8. TRIAL

At the trial you will have an opportunity to present your arguments and your evidence to the Court. You will also have an opportunity to ask questions of the Defendant and any witnesses in order to bring out points in your favor. The Defendant will also have an opportunity to present his/her evidence and ask questions of you and your witnesses.

PRESENT FACTS - NOT YOUR FEELINGS TOWARD THE DEFENDANT. You will be furnished a copy of the judgment at the Clerks' office if the Judge announces his/her decision from the bench. Otherwise, you will receive a copy by mail as soon as the Judge makes a decision.

9. SETILEMENT

Please notify the Court in writing if you have settled your case with the other party and you wish to have your case dismissed. Notifying the Court in this manner may allow another case to be heard during your allotted time slot.

10. AFTER JUDGMENT

If Judgment is rendered in your favor and you need assistance with the forms necessary to collect on a judgment, some forms that may be of assistance to you are available in the Small Claims Division of the Clerk's Office. You may wish to consult with an attorney about how to try to collect any judgment you receive.

There is a thirty-day (30) appeal period before you can proceed with collection of any judgment. Do not ask the Judge how to collect a judgment during your trial. IF YOU OBTAIN A JUDGMENT IN YOUR FAVOR AND IT HAS BEEN PAID IN FULL, YOU MUST FILE AN ENTRY OF SATISFACTION OF JUDGMENT.

The Court cannot practice law for you or locate Defendant's assets such as bank accounts, names and addresses of employers, real estate, motor vehicles etc.

THIS PACKET IS FOR INFORMATION PURPOSES ONLY. COURT STAFF ARE NOT PERMITIED TO HELP YOU WITH FORMS OR WITH YOUR CASE. ANY QUESTIONS YOU HAVE SHOULD BE ADDRESSED TO AN ATTORNEY.

Judge David M. McNamee

Xenia Municipal Court

Small Claims Division

Date _____ Court Case #: _____

Plaintiff _____ Defendant _____

_____ Address _____

Address_____ _____

_____ Defendant _____

Telephone Number_____ Address _____

Email Address_____ _____

Telephone Number (If known) _____

Is DEFENDANT presently in the military service of the United States? ☐ Yes ☐ No

COMPLAINT (Why do you think the Defendant owes you money?): _____

_____

_____

_____

_____

_____

_____

_____

AMOUNT CLAIMED $ _____ , with interest at the rate of_____%, from

the_____day of_____ 20____.

The above Complaint is true to the best of my belief.

_____

Plaintiff