

Small Claims Checklist

Scheduling Trials

- Determine methods of scheduling with judge.
- Set up schedule and communicate to clerks.

Filing and Pretrial Assistance

- Have clerks review affidavits at the time they are filed to see if intentional torts are alleged. See [MCL 600.8424](#).
- Have clerks complete notice of hearing based on agreed-upon methods.
- Provide information to the plaintiff and the defendant about the court's role in small claims. This includes at a minimum the instructions provided with the affidavit and claim form. ([SCAO Form DC 84](#)).
- Distribute or implement any other pretrial assistance procedures that have been developed.

Preparing for Trial

- Review affidavit and determine whether intentional tort, improper damages, or other errors of law have been made. See [MCL 600.8424](#).
- Research special statutes and other law.
- Check to see that service of process is proper.
- Make sure parties are proper. See [MCL 600.8407](#); [MCL 600.8408](#).

Conducting Trial

- Prior to hearing, take roll and dispose of the dismissals and defaults first.
- Explain to the parties the four rights being waived by proceeding in small claims: right to attorney, right to a jury, right to recover more than the statutory amount, and right to an appeal (but parties may appeal district court magistrate's ruling to district court judge). [MCL 600.8412](#).
- Ensure the affidavit informing the parties of the rights waived is prepared. See [MCL 600.8402](#); [MCL 600.8412](#). See also [SCAO Form DC 84](#).
- Call the case.
- Identify the parties and any witnesses they may have.
- Ask if either party wishes to remove the case to the general civil division. See [MCL 600.8411\(1\)](#).
- Swear in all parties and witnesses. [MCL 600.8411\(2\)](#).
- Ask the plaintiff to present evidence to the court. Do not allow the defendant to question the plaintiff or witnesses or interrupt the testimony of the plaintiff or witnesses. See [MCL 600.8514](#).
- Ask the defendant if he or she has any questions for the court to ask the plaintiff and then to present evidence to the court. Do not allow the plaintiff to question the defendant or witnesses or interrupt the testimony of the defendant or witnesses. See [MCL 600.8514](#).
- Determine what the parties agree to and what issues are actually in dispute.
- Examine any exhibits that may be offered. See [MCL 600.8514](#).
- End all questioning with: "Is there anything else anyone wants to tell me that I haven't already heard?"
- Inform parties that the testimony has concluded and that the court will render a decision. See [MCL 600.8514](#).
- Make specific findings of fact, recite the law, and apply the facts to the law. See [MCL 600.8514](#).
- Assess costs. See [MCL 600.8514](#).

- If finding for the plaintiff**, ask the defendant whether he or she is prepared to pay the judgment now. If not, obtain information from the defendant concerning assets and arrange a plan for satisfaction of the judgment if requested by the defendant. See [MCL 600.8410](#).
- Prepare and sign judgment form. ([SCAO Form DC 85](#)).
- Give copies of the judgment to the parties. [MCL 600.8410\(6\)](#).
- If the defendant does not pay the judgment immediately, provide both parties with information on the methods for collecting the judgment. [MCL 600.8409\(2\)](#). ([SCAO Form DCI 84](#))
- File original judgment with the court clerk.

Defaults

- Call the case.
- Identify the person and title appearing for the plaintiff.
- Swear in the witness (plaintiff). [MCL 600.8411\(2\)](#).
- Review file to determine whether service on the defendant was proper. See [MCL 600.8405](#).
- Obtain a factual basis for the claim (determine liability). See [MCR 4.304\(B\)\(1\)](#).
- Obtain a factual basis for the amount claimed (determine damages).
- Determine appropriate costs.
- Prepare and sign judgment form. ([SCAO Form DC 85](#)).
- Give copy of judgment to plaintiff. [MCL 600.8410\(6\)](#).
- Mail copy of default judgment to defendant at the address of record by regular mail. See [MCL 600.8410\(6\)](#).
- File original judgment with the court clerk.

Removal

- Ask if either party wishes to remove the case to the general civil jurisdiction of the court. [MCL 600.8411\(1\)](#).

- Ensure proof of service has been filed. See [MCR 4.306\(B\)\(2\)](#).
- If the demand is made orally, provide the requesting party with a copy of the form and have them complete it. Otherwise proceed to the next step. ([SCAO Form DC 86](#)).
- Sign and date the order directing the defendant to file a written answer within 14 days after the date of the order. [MCR 4.306\(B\)\(1\)](#).
- File the original demand and order for removal with the court clerk.

Dismissal

- Dismissal for lack of progress may be appropriate when no progress has been made in the case within 91 days of the last action. [MCR 4.303\(D\)\(1\)](#).
- On motion of a party or on the court's own initiative, determine whether any progress has been made within 91 days of the last action in the case and consider whether dismissal is appropriate. If no progress has been made within 91 days after the last action in the case, instruct the clerk or deputy clerk to sign and date a notice of intent to dismiss for lack of progress. ([SCAO Form DC 542](#)).
- Serve the notice of the proposed dismissal on the parties at least 14 days before entering an order to dismiss. [MCR 4.303\(D\)\(2\)](#). ([SCAO Form DC 542](#)).
- If no action occurs within 14 days after service of the notice of intent to dismiss and dismissal of the case is appropriate, determine whether dismissal will be with or without prejudice. [MCR 4.303\(D\)\(2\)-\(3\)](#). Dismissal for lack of progress is without prejudice unless the court orders otherwise. [MCR 4.303\(D\)\(3\)](#).
- Sign and enter the order to dismiss. ([SCAO Form DC 543](#)).