

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. The court completes the notice of hearing and includes it with the affidavit served on the defendant. ([SCAO Form DC 84/84n](#)).
- ☐ Have clerks confirm that an addendum is completed and attached if the case has multiple plaintiffs or defendants. ([SCAO Form DC 84a](#))
- ☐ Provide information to the plaintiff and the defendant about the court's role in small claims. This includes at a minimum the overview the court must provide to the parties. ([SCAO Form DC 84info](#)).
- ☐ 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. Review the proof of service for the method, date, and time of service or attempted service. See [MCL 600.8405](#); [MCL 600.8406\(2\)](#). ([SCAO Form DC 84p](#)).
- ☐ 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 the dismissal or 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 the plaintiff with information on the methods for collecting the judgment, and have the clerk record delivery on the certificate of service. [MCL 600.8409\(2\)](#). ([SCAO Forms DC 85info](#) and [DC 85](#)).
- ☐ 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](#). ([SCAO Form DC 84p](#))
- ☐ Before entering judgment, require the plaintiff to file a verified statement of the defendant's military status. [50 USC 3931\(b\)\(1\)](#). ([SCAO Form MC 500](#)).
- ☐ If the defendant is in military service, do not enter judgment until the court appoints an attorney to represent the defendant. [50 USC 3931\(b\)\(2\)](#).
- ☐ If the defendant is in military service, grant a stay of proceedings for a minimum of 90 days on application of counsel or on the court's own motion if there may be a defense that cannot be presented without the defendant's presence, or if

counsel, after due diligence, has been unable to contact the defendant or determine whether a meritorious defense exists. [50 USC 3931\(d\)](#).

- ☐ If military status cannot be determined, consider requiring the plaintiff to file a bond in an amount approved by the court. [50 USC 3931\(b\)\(3\)](#).
- ☐ 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 the dismissal or judgment form, selecting the default option and confirming compliance with the Servicemembers Civil Relief Act. ([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\(1\)](#).
- ☐ A party may demand removal by signing a written demand and filing it with the clerk at or before the time set for hearing, or by appearing at the time and place set for hearing and demanding removal. [MCR 4.306\(A\)](#).
- ☐ If the demand is made orally, provide the requesting party with a copy of the demand form and have them complete it. Otherwise proceed to the next step. ([SCAO Form DC 86](#)).
- ☐ On receiving the demand, sign and date the order directing removal to the general civil division and directing the defendant to file a written answer within 14 days after the date of the order. [MCR 4.306\(B\)](#); [MCR 4.306\(B\)\(1\)](#). ([SCAO Form DC 86o](#)).

- ☐ Instruct the party demanding removal to promptly serve the order on the opposing party and file proof of service with the court. [MCR 4.306\(B\)\(2\)](#).
- ☐ Collect no fee for the removal, order, or mailing. [MCR 4.306\(B\)\(3\)](#).
- ☐ 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, date, and serve a notice of intent to dismiss for no 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\(D\)\(3\)](#).
- ☐ Complete, sign, and enter the order dismissing the case, selecting dismissal with or without prejudice. ([SCAO Form DC 542o](#)).
- ☐ Have the clerk serve a copy of the dismissal on each party and complete the certificate of service. ([SCAO Form DC 542o](#)).

