

CONCILIATION COURT

Court Administration
Otter Tail County Courthouse
121 West Junius Ave., Suite 310
Fergus Falls, MN 56537

Phone: (218) 998-8420

The information contained in this pamphlet is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these procedures, consult an attorney. This office cannot give legal advice.

Legal Limit for Conciliation Court Claims \$7500

COURT FEES

Filing a Claim or Counterclaim-----	\$ 60.00
Docketing a Judgment in District Court-----	\$ 30.00
Writ of Execution -----	\$ 40.00
Request for an Order for Disclosure -----	\$ 5.00
Subpoena -----	\$ 12.00
Affidavit in Support of Order to Show Cause -----	\$ 5.00
Demand for Removal/Appeal -----	\$250.00
Jury Fee -----	\$ 75.00
Satisfaction of Judgment -----	\$ 5.00

(The Forms listed above are available at any Court Administrator's Office in the State of Minnesota)

(revised 7/1/06)

WHAT IS CONCILIATION COURT?

Minnesota Law created the Conciliation Court, also known as the Small Claims Court. This Court allows citizens to bring their legal claims to Court without expensive costs or complicated legal procedures.

DO YOU HAVE A CLAIM TO FILE IN CONCILIATION COURT?

The Conciliation Court can accept claims for filing that are below the limit set by Minnesota Law. Effective July 1, 1994, the monetary jurisdictional limit is \$7,500.00. It can also order that property be returned. However, claims involving the following are not allowed:

- ❖ Title to real estate
- ❖ Libel or slander
- ❖ Class actions
- ❖ Medical malpractice

Conciliation Court cannot accept for filing a claim that exceeds the monetary limit set by law. **If you reduce your claim to the limit of Conciliation Court, you cannot increase your claim at a later date. You may not file any other claims related to the same incident.**

It will cost you some money to make your claim. In deciding whether to file your claim, you should consider whether the person the claim is against (the Defendant) will be able to pay you. **Although you may win your case, conciliation court is not a collection agency.**

WHERE DO YOU FILE A CLAIM IN CONCILIATION COURT?

Generally, you must file your claim in the county where the person you are making a claim against (the Defendant) lives. Exceptions to this rule include the following:

- ❖ Most bad checks issued in the county
- ❖ Landlord and tenant disputes

These are filed in the county where the check was written or where the rental property is located.

- ❖ Corporations are sued at the place of business (consult the Secretary of State at (651) 296-2803
- ❖ See Minnesota Statutes, Chapter 491A for other exceptions

HOW DO YOU FILE A CLAIM IN CONCILIATION COURT?

If you are filing a claim, you are the Plaintiff in the action. You should contact the Court Administrator's office in the county court building where you are filing the claim. The Uniform Conciliation Court Form for filing your claim is available from any Court Administrator's office in the State of Minnesota. Upon the request, a person from the office will help you complete the form. You must have the following information:

- ❖ Your name and address and the exact full legal name and address of the Defendant (home address if the Defendant is an individual).
- ❖ The amount of your claim and the reason for it. Describe loss sustained and basis for estimate of the loss. Include the date any bill was incurred and the date of last payment, if any payments were received. Indicate the type of services or goods provided. Interest or finance charges should be listed separately. If filing for unpaid rent, please list the months of the unpaid rent. When filing for an auto accident, please give year and make of vehicle and the location of the accident. All details of a claim may be stated in court at the time of the trial.
- ❖ The date your claim arose.
- ❖ You may ask for return of property if it is worth \$7,500.00 or less. It is important to clearly describe the property you want (i.e. color, year made, serial no., etc.)

Sign the claim in front of a Notary Public or come to the Conciliation Court to sign the claim before a Court Deputy. Return the entire completed form with the correct filing fee to the Court Administrator's office in the County in which you are filing the claim. Make checks payable to "District Court". **Do not send cash, attachments or exhibits.** Bring your evidence with you to Court the day of the hearing. You will be notified by mail of the date for your hearing, at which time you must appear to present your claim to the Court.

If your claim is \$2,500.00 or less, the Court Administrator will serve the Defendant by first class mail, and will mail notice to you and the Defendant of the date when your claim is to be heard. If the claim is more than this, you must serve the Defendant by certified mail or personal service, and proof of service must be provided to the Conciliation Court prior to the hearing date.

Many cases settle when the Defendant receives a notice of the hearing. It is your responsibility to inform the Court Administrator's office if you and the Defendant settle your case. Simply sign the Notice of Settlement on the bottom of your pink copy of the Statement of Claim and Summons and return it to the Court Administrator.

WHAT HAPPENS IF A DEFENDANT FILES A COUNTERCLAIM?

The Defendant may also make a claim against you. The Defendant must file the claim at least 5 days before the date set for the hearing (Saturdays, Sundays and Holidays are not included).

The Defendant must also pay a filing fee. The Court Administrator will notify you if a counterclaim is filed against you. The counterclaim is heard by the Judge in Conciliation Court on the same date and at the same time set for your claim.

Your claim will be transferred to District Court if the counterclaim filed against you is above the legal limit for Conciliation Court. The Defendant will serve you with an Affidavit notifying you of his/her intent to file in District Court. If the Defendant fails to file the counterclaim in District court after giving you notice of the intent to do so, you may have your claim reinstated in Conciliation Court. You may do this anytime after 30 days and before 3 years expire by filing a sworn statement or Affidavit with the Court Administrator. The Affidavit must say that the Defendant has not served you with a Summons in District Court.

WHAT HAPPENS IF I CAN'T COME THE DAY OF THE HEARING?

If you have a conflict with the court date, send a written note to Conciliation Court and to the other party right away. The note should give the reason why you can't be at the hearing, and it must be received 5 working days before the hearing. You may only ask to change your Court date once, and you may have to pay up to \$50.00 in costs.

WHAT IF YOU ARE THE DEFENDANT AND YOU BELIEVE SOMEONE ELSE IS RESPONSIBLE FOR PLAINTIFF'S LOSS?

If you believe that another person is responsible for Plaintiff's loss, you may bring claim against that other person and ask the Court to hear all related claims together.

HOW DO YOU PREPARE FOR THE HEARING BEFORE THE JUDGE?

Although Conciliation Court hearings are informal, you must be adequately prepared to present your case. The rules provide that lawyers can participate in Conciliation Court to the extent approved by the Judge. All parties and witnesses who appear will testify under oath. The witnesses should be present and ready to testify. If a witness is reluctant to

appear and testify, you may obtain a Subpoena to compel them to appear. You can obtain a Subpoena from the Court Administrator's office by paying a fee for Subpoena. **You should be aware that written statements and Affidavits of persons not present in Court have very little value.** You should also bring to Court all other evidence such as receipts, repair bills, estimates and other items that help prove your claim. You can obtain a Subpoena for documents that relate to your claim, which the Defendant or some other person has, but is unwilling to give you.

You should prepare a list of facts you wish to present before you go to Court. Organize your presentation to make it as clear and complete as possible. Be brief and to the point. Important facts on a claim are frequently forgotten.

WHAT HAPPENS IF YOU DO NOT APPEAR FOR THE HEARING?

All parties should appear. If you do not appear for the hearing, the Judge may dismiss your claim or award a default judgment against you. This may happen even if you originally brought the claim. If the Defendant does not appear, the Judge may award a default judgment in your favor.

WHAT HAPPENS AFTER THE HEARING?

The Court usually does not rule on your claim at the time of hearing. The Court Administrator will mail notice of the court's decision to all parties. The judgment will not become effective until twenty days after mailing the notice. This twenty-day period allows you to appeal or make a motion to vacate the judgment. The court may vacate the judgment and order a new hearing if a party that did not appear has a good reason for not appearing. Before it grants a new hearing, the court may require the party who did not appear to pay costs to the other party. The Court Administrator's office can provide you with an Affidavit that initiates the request for the vacation of the judgment.

HOW DO YOU APPEAL A JUDGMENT OF THE CONCILIATION COURT?

Appeal procedures are more complex than Conciliation Court rules. Although it is not required, it is suggested that an attorney represent the appealing party. Court Administration staff are not attorneys and cannot practice law. Therefore, they cannot assist you in preparing your appeal. However, forms are available at the Court Administrator's office.

Your case may be appealed or removed to the District Court if either party is dissatisfied with the Conciliation Court judgment. To initiate the appeal, you are required to file a Demand for Removal, Affidavit of Good Faith, and an Affidavit of Service with the Court Administrator within 20 days of the date the judgment was mailed. Forms are

available from Conciliation Court. An additional District Court filing fee and jury fee is required.

Also, if the agency you represent is a corporation, Minnesota law requires that an attorney, not the party who appeared in Conciliation Court, sign the removal documentation. It is also important to note that the deadline to file a removal cannot be extended beyond the 20-day time limit.

WHAT HAPPENS UPON AN APPEAL?

If the matter is appealed to the District Court, a completely new court trial will take place before a different Judge. The trial may be to a jury if a jury demand is filed and a fee is paid. Attorneys may represent all of the parties. You should not rely on anything that was said or that happened at the Conciliation Court trial. Again, you should be prepared to present your case, have your witnesses ready to testify, and have all your other evidence available.

If you appeal to the District Court from the Conciliation Court judgment and do not win, you may be required to pay the other party \$50.00

If you do not understand these procedures, contact an attorney. The Conciliation Court employees are trained to assist you but they are forbidden to give legal advice. The employees may help you in preparing our claim papers if you desire, but when the Court has made a decision in your case, they are not allowed to help you in collecting your judgment.

You will not have to pay the other party \$50.00 if:

- ❖ You win your case in District Court and get either 50% of what you asked for or more than \$500 in money or goods.
- ❖ The other party wins some amount in Conciliation Court but nothing in District Court
- ❖ You win at least \$500 in money or goods or 50% more in District court that you received in Conciliation Court.
- ❖ The other party has the amount won from you in Conciliation Court reduced by at least \$500 or 50% by the District Court.

HOW DO YOU COLLECT A CONCILIATION COURT JUDGMENT?

Although a case was decided in your favor, it is not always easy to collect a judgment. You cannot collect assets that a person or business does not have. The collection process

will be worthwhile only if you can locate collectable assets. Judgments are enforceable for 10 years after the date of entry.

If you received a judgment and the other party (judgment debtor) does not appeal or voluntarily pay, you may choose to have the judgment enforced. **As with the appeal process, if the agency you represent is a corporation, you will need to have an attorney sign all of the documentation necessary to collect the judgment.** You will have to pay additional fees, but these fees will be included in the collection from the judgment debtor if funds are collected. To do this, you must first have the Conciliation Court judgment transcribed to District Court. You then must file an Affidavit of Identification with the Court Administrator's office. This creates a civil judgment that affects the debtor's credit rating. The judgment may be enforced for up to 10 years from the date of the original Conciliation Court judgment. **Conciliation Court is not a collection agency.** You can, however, try to collect the judgment yourself if it has not been paid by the date indicated on the judgment notice, and if an appeal has not been filed. Here are a few tips on how you can locate the debtor and/or their assets:

- ❖ The county libraries have directories that may list the debtor's home address and place of employment. This information is important to your collection process
- ❖ You may be able to locate the debtor's bank by looking at any cancelled checks that you might have written to the debtor.
- ❖ You can find out whether the debtor has a motor vehicle registered under his/her name by contacting the Minnesota Motor Vehicles Records Division at (651) 296-6911. This may give you the name of the lender that the debtor is doing business with.

When your judgment is final and the debtor has not paid you or the Court, you may begin the collection process by following these steps:

- ❖ Go to the court building, or request by mail, an Affidavit of Identification, to transcribe your judgment to District Court. Upon completion of the Affidavit, submit it to the Court Administrator's office with the filing fee of \$30.00. Your judgment will then be transcribed from Conciliation Court to District Court. This creates a judgment against the debtor's name.
- ❖ Order a **Writ of Execution** (\$40.00) from the Court Administrator if you know where the debtor banks or where the debtor works. If you do not know either of these, you are not ready for an Execution. The Execution must be issued to the Sheriff in the county where the bank or employer is located. The Court Administrator will mail the Execution to you and you are to take it

to the Sheriff of the appropriate county for service. The Sheriff will charge a fee for this service.

- ❖ If you do not know where the debtor works or banks, you may request, complete and file a **Request for Order for Disclosure**. There is a filing fee of \$5.00 per name. The Court Administrator's office will then issue an **Order for Disclosure** and mail it to the debtor along with a **Financial Disclosure** form. The debtor is allowed sixteen (16) days to complete this form and forward it to you. It is your responsibility to supply the Court with a current address for the debtor. **If a completed Financial Disclosure form is received from the debtor, you can then decide what options are available for collection.

- ❖ If no answer is received, you can complete an **Affidavit in Support of an Order to Show Cause**, and request a court hearing before a Judge. When the hearing is scheduled, the Court Administrator's office will then issue an **Order to Show Cause**. There is a \$5.00 fee for filing the Order to Show Cause form. It is your responsibility to have the debtor served with the Order. The Sheriff, or any other party who has no financial interest in the judgment can serve this Order. It must be served on the debtor personally. **It cannot be left at his/her residence with anyone else.**

The Order to Show Cause requires the debtor, as well as the creditor, to appear at the Court hearing. At the hearing, the debtor will be instructed to complete the Financial Disclosure or give the Judge a valid reason for not doing so. If the debtor fails to appear at this hearing the Judge may issue an Order for a **Writ of Attachment**. This is a warrant for the arrest of the individual for civil contempt of Court. If you choose to have this Writ issued, there is a \$40.00 fee required. The sheriff will also charge a fee for service of the Writ of Attachment. When the Writ of Attachment is issued, you will be required to furnish a physical description of the debtor.

If you wish to have the cost of collection added to your judgment after an unsuccessful attempt to collect, you may need to file a notarized affidavit of stating the costs and requesting those costs be added to your judgment. Please attach a copy of your receipt from the sheriff to your affidavit.

- ❖ If the debtor pays the judgment in full, it is your obligation to provide the debtor with a **Satisfaction of Judgment**. This form can be obtained through the Court Administrator's office or at any

legal stationery store. A Satisfaction of Judgment must be filed with the Court Administrator and a \$5.00 fee must be paid. This must be done within 10 days if paid in cash, or within 30 days otherwise. After this has been done, the judgment will then be satisfied against all parties.

- ❖ If the judgment is for property damage sustained in an automobile accident, you may wish to ask the Commissioner of Public Safety to suspend the driving privileges of the driver. Conciliation Court staff can help you do this 30 days after your judgment becomes final. There is a \$10.00 fee for certified copy that must be sent to the Department of Public Safety.

If the Sheriff or an Attorney is unable to collect the judgment, or if you have determined that there are not assets on which you can collect, it does not mean that you will never collect your judgment. A judgment in Conciliation Court is valid for 10 years and may be executed on at any time during those 10 years. This is important because the debtor may, at some future time, have collectable assets. The fact that an unpaid judgment may affect the debtor's credit rating could result in voluntary payment at a later time.