

Small claims court a handy consumer tool

Settling life's small injustices

By GLENN BERGENFIELD
For the Emerald

Editor's Note: This article is not a substitute for the advice of an attorney. It is intended solely to explain the details of local Small Claims Court. Every small claims case is a unique situation which should be dealt with individually.

Except for sex, it may be that the greatest causes of human frustration and outrage are toaster ovens that do not toast, repairs paid for but not done and small amounts of money loaned and not repaid. Small Claims Court provides an inexpensive and comprehensible way to sue the bastards and possibly avoid these aggravating situations. This article will explain small claims procedure in Oregon.

Beginning the Suit

District Court Judge James Hargreaves considers Small Claims Court a "people's court"; corporations and any mentally competent person at least 18 years old can sue or be sued there. Only lawyers need special permission to appear. The court can hear any dispute involving \$500 or less. The court does not, however, have power to prohibit or compel an act; for example, it cannot force a friend to return a pie plate.

Any merchant, repairperson or landlord doing business in Eugene can probably be sued in Lane County Small Claims Court. It is located in the fourth floor of the county courthouse at 125 E. Eighth Ave. The party seeking the money, the plaintiff, must fill out a claim form supplied by the court.

An informal statement will suffice — "For a toaster oven I bought from him that does not toast," or "For money loaned her and not repaid." The defendant's name and address must be included. The clerk can help in filling out the claim form. There is a filing fee of \$8. A copy of the claim form and a notice to respond are delivered to the defendant by the sheriff. There is a fee of \$6 for this. If the suit is successful, these fees can be recovered from the defendant.

The defendant is given 10 days to choose one of four alternatives:

- Ignore the entire, aggravating matter.
- Pay the plaintiff the amount claimed.
- If the amount exceeds \$200, demand a jury trial.
- Demand a Small Claims Court hearing. The defendant can also file a related claim against the plaintiff.

If the defendant does not respond, the plaintiff receives a judgment for the full amount of the claim. If the defendant pays the plaintiff, the claim is dismissed. If the defendant properly demands a jury trial, the plaintiff can refile the claim in District Court. If the plaintiff wants to do this, a lawyer should probably be consulted.

The Hearing

If the defendant requests a Small Claims Court hearing, it is usually held within 30 days. The parties can still, at this point, settle their differences out of court. If this does not occur, the plaintiff receives the long-awaited day in court.

The hearing is quite informal. An impassioned plea for justice, while very uplifting, may not be the best tactic. A calm, lawyer-like explanation of what happened is probably preferable. The plaintiff and defendant can also offer relevant evidence such as receipts, bills or damaged toaster ovens. Witnesses unwilling to attend can be subpoenaed (ordered) by the court to attend. The judge participates, asking for the needed facts. There is no appeal from this decision.

Judgment

The judge can decide for the defendant, ask for a compromise or decide for the plaintiff. A judgment is not, however, the same as money in the hand. But if the defendant does not pay immediately the plaintiff can ask the court clerk for a Writ of Execution, an order of the court allowing the sheriff to collect the amount of the judgment by taking money from the defendant's wages and bank accounts.

Just Desserts, Psychic Rewards and All That

In deciding whether to sue, a few factors other than outrage should be considered. First, it



Drawing by Joe Graham

costs at least \$14 to begin the suit. If the matter is not worth much more than that it is probably not worth the gamble — you may not win. Second, if the matter appears to be worth a substantial amount, it may be wise to see a lawyer. Perhaps the claim is worth a great deal more than you realize; lawyers are expert at these calculations. Third, always before suing, simply ask the individual for the money. Last, if the potential defendant is a merchant, there are other possible remedies — a complaint to the state consumer fraud division or the state attorney general.

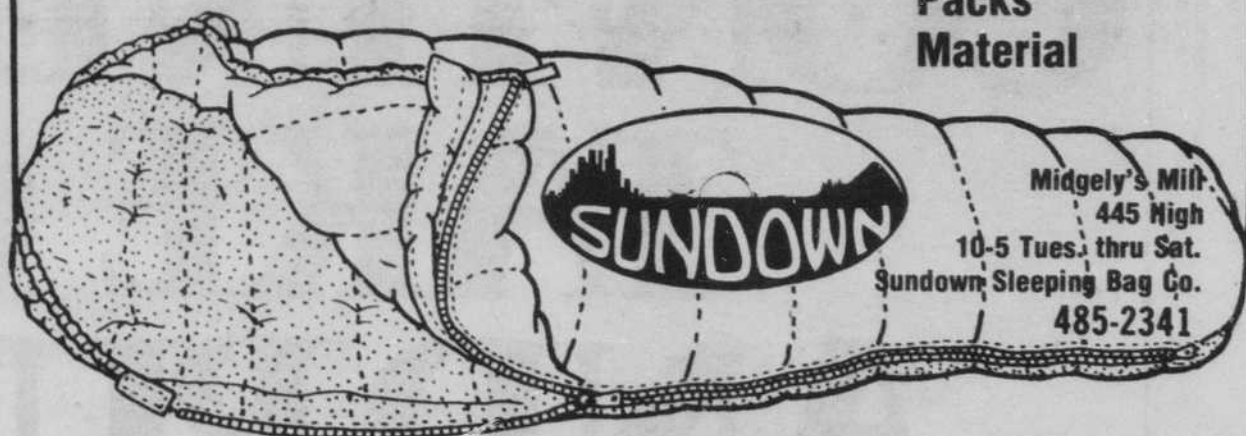
Nevertheless, a noted economist estimated recently that corporate frauds bilk consumers of at least \$50 billion annually. Even in a world of restrained passions, things like this need not be tolerated. Small Claims Court offers the chance to come face-to-face with someone who has treated you unfairly; a judge empowered by the state listens dispassionately to both sides and decides whether you are entitled to compel the defendant to right the wrong done. In what often seems an otherwise senseless world, it is a possibility that should not be overlooked.

Charity offers scholarship

The Benton Chapter of the March of Dimes will give a \$500 one-year award to a Benton County resident who is preparing for a career in a field related to the prevention or treatment of birth defects.

Applications will be reviewed by a committee appointed by the Benton County Foundation Chapter. Deadline for filing applications is April 15. For application forms or to return completed forms write to Rosemary Ayres, Jefferson School, Corvallis, 97330.

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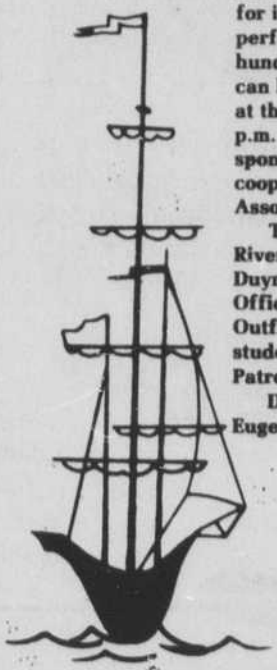
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The U.S. Navy Band from Washington, D.C. is known as "the world's finest" and rightfully so, for its outstanding professional musicians have performed to tremendous audience acclaim in hundreds of cities from coast to coast. Now you can hear Navy Band in concert at McArthur Court at the University of Oregon on March 2, at 8:30 p.m. This one-performance-only event is being sponsored by the Amazon Kiwanis Charities in cooperation with the Oakway Malls Merchants Association and the U.S. Naval Reserve.

Tickets are available at Meier & Frank, Valley River J. C. Penney, The Oakway Fabric Centre, Van Dusen's Interior Accessories, The U of O Alumni Office, The Broadway, Mattox Pipe and Outdoor Outfitters or call 687-0040. Price: \$3, \$1 for students and senior citizens and \$10 for reserved Patron seat.

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