

Spring 2007
C

417/881-5667 phone
417/888-5123 fax

Stephen F. Aton

Attorney at Law

Corporate, Estate Planning, Personal Injury Law, Closings through Aton Title Co.

Small Claims Court: Can it Work for You?

Small Claims Court:

- *Claims less than \$3,000*
- *Available for collection of money only*
- *No attorney is required to appear or draft the petition*
- *You must collect the judgment yourself if you win in court*

Clients frequently ask how to collect small sums of money for which it is not cost effective to hire an attorney. The choice is either to forego the money or pursue a small claims action in Small Claims Court.

It is important to note that small claims are only available for claims of money. It is not available for evictions or to force return of property. Claims may be filed for up to \$3,000. Any claim exceeding that amount may not proceed in Small Claims Court.

The court clerks will help you fill out the petition to initiate the action. You will pay a filing fee,

usually only \$5-\$10, and be responsible for presenting your own evidence in court.

The Court will mail a copy of your petition to the defendant by certified mail, informing them of the court date. On your court date, bring any and all receipts, correspondence, written bids, photographs and other materials that will help you explain your claim to the judge. You may also bring witnesses to testify for you.

After you have presented your case, the defendant will have an opportunity to tell his side of the story. The Judge will usually take the case "under



advisement," which means you will learn the result later, usually by mail. If you win, you will be responsible for collecting the money owed to you.

Small claims may be your best option for collecting lesser sums of money without a lawyer.



Should You Put Your Children on Your Deed?

Another of the most frequent questions clients ask is whether they should put their daughter, or son (or both) on the deed to their home. The answer is an unqualified, "No!"

You may wish to avoid probate by placing one or more of your children on the deed to your house. If you and your child hold the property as joint tenants with rights of survivorship, the survivor will be the sole owner of the property on the death of the joint tenant.

Problems may arise if your child has financial problems, files bankruptcy, is involved in an auto accident, or incurs medical debt. If you placed the child on the deed, your home would be at risk. It could be part of a bankruptcy estate, divorce proceeding or other suit to collect money from your child.

If you want to sell your house, your child will have to agree to the sale as well. If the child is married, their spouse will also have to sign to convey their marital interest in the property.

As if this were not enough, your child will pay capital gains taxes when selling that could have been avoided if you had given them the house on death.

You may still avoid probate and putting your home at risk by having an attorney prepare a beneficiary deed. The deed must be recorded in the county in which the property is located before your death. On death, the house goes to your child without probate. The deed is also revocable in case you change your mind.

Top 10 Jury Verdicts of 2006

#1) \$216.7 million: Medical malpractice. A man suffered severe brain damage after a misdiagnosis.

#2) \$160 million: Nursing home negligence. An elderly man was severely beaten by his mentally ill roommate.

#3) \$106 million: Wrongful death. A toxicologist used drugs stolen from the state lab where she worked to poison her husband.

#4) \$61 million: Workplace harassment. Victims of ethnic discrimination.

#5) \$51 million: Vioxx
In the second-largest Vioxx verdict to date, a 62-year-old retired FBI agent who suffered a heart attack wins large verdict after taking the painkillers.

#6) \$47.5 million: Death of prisoner. Man was beaten to death in the prison yard.

#7) \$46 million: Auto accident in Missouri. Two people were died when car burst into flames after being hit from behind by a truck on a foggy highway.

#8) \$44.2 million: Business dispute in Florida by a Sarasota developer.

#9) \$44 million: Police brutality
Police slammed a 55-year-old prisoner headfirst into a cell wall, rendering him a quadriplegic.

#10) \$38.5 million: Product liability case against a truck manufacturer in which a 25-year-old woman suffered severe brain injuries when her car skidded under a truck that had no side underside protection.



Large jury awards especially prominent in FL, CA & TX.

A Realtor May Help You Maximize Profits!

Realtors can often get you more money for your property than you can. They also have access to data to establish market value. In addition, they have what you most need: buyers!

One of the most difficult aspects of selling a house is setting the price correctly. If it is too low, you will be leaving money on the table. If it is too high, you may run off the best buyers and end up settling for

less than fair market value to attract interest once the price is right. Very often your first offer is your best offer.

A realtor can negotiate with the buyer or buyer's agent, so that you are not in the middle. Selling is often an emotional issue, and a third party can make the deal an owner could not make.

Your realtor can also advise you on things you can do to make your property more attractive. It

is hard to see what needs to be improved when you are so familiar with your property.

Finally, a realtor can guide you through the contract and closing process. As the seller, you can select the closing company. Aton Title has worked with many of my clients and would appreciate the chance to work with you. Call us if you have questions about the closing process.

A Realtor may help you net more money on the sale of your property. They establish price, find buyers and guide you along the way.

Pop Quiz: Test Your Legal Knowledge

1. What form of property ownership is available only to a husband and wife?

- joint tenancy
- tenancy in common
- tenancy by the entireties
- POD (pay on death)

2. Which type of deed provides the most protection?

- quitclaim deed
- trustee's deed

- general warranty deed
- special warranty deed

3. What must a MO Personal Representative be?

- a MO resident
- related by blood
- the age of majority
- licensed by the Court.

4. Which is true of a Will?

- cannot omit children

b. passes assets without court intervention

- needs two witnesses
- cannot be changed

5. An LLC cannot be taxed as a

- corporation
- sole proprietorship
- trust
- partnership



The answer to all questions appears under the words "Spring 2007" on the masthead.