

RULES OF THE COURT OF CLAIMS OF OHIO

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RULE 1. Scope; Applicability; Citation

(A) Scope; applicability. These rules, and those Civil Rules not clearly inapplicable to the special statutory procedures set forth in R.C. Chapter 2743, govern practice and procedure in the Court of Claims.

(B) Citation. These rules shall be known as the Rules of the Court of Claims of Ohio and shall be cited as "C.C.R. __."

[Effective: July 1, 1975.]

RULE 2. Clerk's Fees

(A) **Deposit.** The clerk, except as provided in subdivision (B), shall not accept a claim for filing including claims removed to the court of claims, unless such filing is accompanied by the filing fee prescribed by the court.

(B) **Poverty affidavit.** The clerk shall accept for filing all claims accompanied by a poverty affidavit which states specific reasons for the inability to pay the deposit to secure costs. In a claim accompanied by a poverty affidavit, the clerk shall serve all process and pay the expense therefor from the funds of the court and tax such expenses as costs. The clerk or the court may at any time require additional information and a hearing, or both, to determine the validity of the poverty affidavit.

(C) **Fees.** The clerk shall charge and collect the fees established by local rule of the court.

[Effective: July 1, 1975.]

RULE 3. [RESERVED]

[Effective: July 1, 1975; former Rule 3 repealed, effective July 1, 1980.]

RULE 4. Petition for Removal and Remand

(A) Petition for removal. A party who serves a counterclaim against the state or makes the state a third-party defendant in an action commenced in a court other than the court of claims shall file a petition for removal in the court of claims. The petition shall state the basis for removal, be accompanied by a copy of all process, pleadings, and other papers served upon the petitioner and shall be signed in accordance with Civil Rule 11.

(B) Time for filing petition. A petition for removal based on a counterclaim shall be filed within twenty-eight days after service of the counterclaim of the petitioner. A petition for removal based on third-party practice shall be filed within twenty-eight days after filing of the third-party complaint of the petitioner.

(C) Notice to parties. Within seven days after filing a petition for removal, the petitioner shall serve a copy of the petition upon all parties and the attorney general of this state, and shall file a copy of the petition with the clerk of the court in which the action was originally brought.

(D) Adjudication and remand. The court of claims shall adjudicate all claims removed, except that the court may remand a claim to the court in which it originated upon a finding that the removal petition does not justify removal or upon a finding that the state is no longer a party.

[Effective: July 1, 1975; amended effective July 1, 1976.]

RULE 5. Selection of Jurors

(A) Panel of prospective jurors. In an action in the court of claims where one of the parties is entitled to a jury, the clerk of the court of claims, upon motion of the party or his own motion, shall request the jury commissioners of the court of common pleas of the county in which the action is to be tried to provide a panel of prospective jurors. The jury commissioners shall, pursuant to the request, provide such a panel at the time and place designated by the clerk of the court of claims.

(B) Trial jurors. The trial judge or the clerk of the court of claims may order the trial jury to be selected outside the courtroom, and the trial judge may set the procedure for the examination of prospective jurors.

[Effective: July 1, 1975; amended effective July 1, 1976.]

RULE 6. Administrative Determination of Claims by the Clerk; Duties of Claimant, Defendant, and Clerk

(A) Initiation of administrative determination. A claim against the state which may be determined administratively pursuant to R.C. 2743.10 shall be filed on a complaint form provided by the clerk of the court of claims. The clerk shall retain the original complaint form and send copies of the complaint form to the attorney general and the state department, board, office, commission, agency, institution, or instrumentality named as defendant in the complaint form.

The defendant shall investigate the claim and file three copies of a completed court of claims investigation form with the clerk. The investigation form and attachments shall be filed with the clerk within sixty days of receipt of the claim by the defendant. Within the sixty day period, the attorney general, by written motion, may request an extension of time for filing the investigation report, provided that he sets forth reasons for the extension. If an extension is granted, the clerk shall set a date certain for the filing of the investigation report.

The clerk shall retain one copy of the investigation report and send copies to the attorney general and the claimant. The clerk shall notify the claimant that within twenty-one days after receipt of the report, the claimant may, in person or in writing, respond to the investigation report. Within the twenty-one day period, the claimant, by written motion, may request an extension of time in which to respond to the investigation report, provided that he sets forth reasons for the extension. If an extension is granted, the clerk shall set a date certain for the filing of responses to the investigation report.

(B) Time of administrative determination. Within forty-two days after mailing the investigation report to the claimant, or as soon thereafter as practicable, the clerk, or deputy clerk, shall administratively determine the claim.

(C) Power of the clerk. In administrative determinations, the clerk or deputy clerk has the same power as a judge of the court of claims to regulate all proceedings before him. He may, among other things, conduct hearings, require the production of evidence, rule upon motions, determine admissibility and probative value of evidence, require submission of briefs or memoranda, summon and compel attendance of witnesses, including parties, and call and examine them under oath.

(D) Conduct of administrative determination. Unless otherwise ordered by the clerk, administrative determinations shall be made upon the form complaint, attachments to the form complaint, the investigation report, attachments to the investigation report, claimant's written or oral responses to the investigation report and such other testimony or material that the clerk deems to have probative value.

(E) Evidence in administrative determinations. The formal rules of evidence do not apply in administrative determinations, but all proof shall have such probative value as satisfies the clerk.

(F) Discovery. Discovery procedures shall not be initiated in administrative determinations without the permission of the clerk.

(G) Determination of the clerk. The clerk's determination shall be in writing and include findings of fact and conclusions of law. The clerk shall, simultaneously with the entry of the determination, send copies of the determination to the attorney general, the claimant, and the named defendant.

(H) Appeal of determination.

(1) Determination of the clerk final. The determination of the clerk is final unless a motion for court review is filed within thirty days of the entry of the determination. A motion for court review filed before entry of such determination shall be treated as filed after such entry and on the day thereof.

(2) Motion for court review. A motion for review shall be in writing, specify the determination or part thereof to be reviewed, state with particularity the errors complained of and include a memorandum which sets forth movant's argument and supporting legal authorities.

(3) Service of motion for review. A motion for review shall be served pursuant to Civil Rule 5(B).

(4) Reply memorandum. A reply memorandum may be served and filed by the responding party within fourteen days after service of the motion for review.

(5) Hearing on motion for review. Upon the filing of a motion for review, the clerk shall submit the entire file of the claim to a judge of the court of claims who shall review the clerk's determination. The judge may order oral argument.

(6) Court review. Upon review of the clerk's determination the judge shall confirm the clerk's determination and enter judgment thereon or, if there is substantial error, vacate the clerk's determination and, pursuant to R.C. 2743.12, draft and journalize his own judgment.

[Effective: July 1, 1975; amended effective July 1, 1991.]

RULE 7. Settlement of Claims Filed in the Court of Claims

(A) Settlement of claim. Pursuant to R.C. 2743.15, a claimant and the state may execute an agreement to settle a claim filed in the court of claims. A settlement agreement shall be signed by the claimant and the director or other administrative chief, or the governing body, of any department, board, office, commission, agency, institution, or other instrumentality of the state named as defendant in the action. The settlement agreement shall be approved by the attorney general and filed with the clerk of the court of claims for review by the court.

(B) Review by the court. The court shall review the settlement agreement. If the court concurs with the terms of the settlement agreement, it shall approve and journalize the agreement. If the settlement agreement is not approved, the court may require the claimant and the state to reconsider the agreement. If the court does not approve the reconsidered agreement, the court shall assign the claim for trial.

[Effective: July 1, 1975.]

RULE 8. Enforcement of Money Judgments

Money judgments against the state which shall include all departments, offices, bureaus, commissions, boards, agencies, institutions or instrumentalities, may be enforced only through the procedure established by R.C. 2743.19. Other money judgments in the court of claims against parties other than the state shall be enforced pursuant to Civil Rule 69. The court of claims shall not enforce money judgments against parties other than the state. Upon written request of a party, the clerk shall issue a certificate of judgment which may be enforced pursuant to law in other courts.

[Effective: July 1, 1975.]

RULE 9. Effective Date

(A) Effective date of rules. The rules submitted by the Supreme Court to the General Assembly on January 10, 1975, as amended by the amendments submitted to the General Assembly on April 29, 1975, shall take effect on July 1, 1975. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(B) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 9, 1976, shall take effect on July 1, 1976. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(C) Effective date of amendments. The Amendments submitted by the Supreme Court to the General Assembly on January 14, 1980, shall take effect on July 1, 1980. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(D) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 10, 1991, shall take effect on July 1, 1991. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

COURT OF CLAIMS ADMINISTRATIVE DETERMINATION COMPLAINT FORM