

Small Claims Online Dispute Resolution (ODR) Defendant's Worksheet

This worksheet is for your own personal use to help you prepare for ODR. You do not need to share it with the plaintiff or anyone else.

ODR Goal

The purpose of ODR is to help you and the plaintiff reach an agreement instead of going through a hearing in front of a judge. ODR will ask you and the plaintiff to send each other **offers** to consider. Your offers state the specific **terms** you are proposing, such as the amount of money you are willing to pay and the date(s) you agree to pay it. If you succeed, the ODR program will generate a **Settlement Agreement** based on the agreed upon terms by you and plaintiff.

Things to think about before starting ODR

1. What do you think of the plaintiff's claim against you?

- I agree that I owe the plaintiff money and I agree that I owe the amount claimed. Consider making an offer. See #2 below.
- I agree that I owe the plaintiff money but I do not agree with the amount claimed.
 - Consider making an offer. See #2 below.
 - If you have proof (evidence) that shows why you owe a different amount, consider sending a copy to the plaintiff. You may attach copies of your documents in ODR. Examples of evidence: receipts, communications (emails, letters), pictures, etc.
- I do not agree that I owe the plaintiff money.
 - Consider asking the plaintiff for proof (evidence) of the amount owed.
 - Consider presenting your own proof to the plaintiff with an explanation.

2. Making an offer: How much can you pay and when can you pay? What amount is realistic to you based on your financial situation? What amount will the plaintiff most likely say yes to?

- I can pay all at once. \$ _____ Payment date: _____
- I can pay weekly/monthly. \$ _____ / week or month First payment date: _____
Next payment dates: _____
Final payment date: _____
- I can make ___ number of payments. \$ _____ / each Payment Dates: _____

3. Did you file a "Counterclaim" against the plaintiff? If so, include that counterclaim in your negotiation so there is one final Settlement Agreement for the whole case (the plaintiff's claim and your counterclaim).

- I am willing to offer \$ _____ to settle plaintiff's claim against me.
I am willing to accept \$ _____ to settle my counter claim against plaintiff. This amount will reduce the amount I am offering to pay plaintiff.

The total amount I am offering to pay plaintiff to settle both claims is \$ _____

Example:	\$ 1,500	The amount I am offering to settle plaintiff's claim.
	- 750	The amount I am willing to accept to settle my counter claim.
	\$ 750	The amount I am offering to pay plaintiff.

- Plaintiff owes me more money than I owe plaintiff. You may wish to use Plaintiff's Worksheet and other references located on the Hawaii State Judiciary website ([Small Claims ODR Pilot Program](#)).

4. Responding to plaintiff's offer:

Do you understand the terms of the offer? If not, ask the plaintiff questions using ODR chat.

Can you afford to pay the amount offered? If not, consider making a counteroffer.

Can you pay the amount all at once? If not, consider paying in installments.

5. Closing the court case.

If you and the plaintiff reach an agreement about the claim, you and the plaintiff will also need to agree on how the court should handle the court case. You and the plaintiff will need to agree on one of the following:

- Dismiss the case.** You and plaintiff may agree to dismiss the case against you. This means the court will not make the decision as to who owes money and how much. There are two types of dismissals:
 - 1) **"Without prejudice"** – this means the plaintiff keeps the right to file the same claim against you again in the future.
 - 2) **"With prejudice"** – this means the plaintiff cannot file the same claim against you in the future.
- Continue the court hearing date.** You and plaintiff may agree to ask the court to change the hearing date until later in the future to allow time for all agreed payments to be made.
- Judgment.** You and plaintiff may agree to ask the court to issue a judgment. A judgment is a court order that can be enforced against you to collect monies owed.

If no agreement is reached within the seven (7) days negotiation period, you will be required to come to the courthouse on the date and time assigned. At that time, the presiding Judge may order the parties to mediation with a neutral third-party mediator before the case proceeds to trial.

If you need legal assistance to better understand the court process and your legal rights and responsibilities, please visit the [Hawaii State Judiciary](#) website. Under Self-Help and the Access to Justice Tabs, you will find information about Self-Help Centers, Access to Justice Rooms, and other resources for legal assistance.