

Starting Your Small Claims Case

Online Dispute Resolution Pilot Program

Quick Guide for Plaintiffs



Important: This is an online program. If you do not have the required technology (access to a computer, laptop, tablet, smart phone, internet) or don't know how to use the required technology, [submit a request to the court be exempted from the pilot program](#). This form may be found on the Judiciary Small Claims ODR webpage: <https://www.courts.state.hi.us/small-claims-online-dispute-resolution>

- 1. Sign up for a TurboCourt account**
Go to TurboCourt.com/Hawaii. You will need an email address.
- 2. Select Small Claims – Start a New Case**
You must be logged into the TurboCourt program.
- 3. Choose your jurisdiction and court location**
The TurboCourt program has information to help you select your jurisdiction and location.
- 4. Enter information about your claim**
The information you enter will be used to complete your court forms.
- 5. Review your filing fee payment options**
There is a \$35 filing fee, which is required by law. If you would like to request a waiver of this fee, check the request box. The TurboCourt program will ask you additional questions to prepare your request for the court.
- 6. Review your documents**
Click on the VIEW button to review your document. If you need to make changes, click the REVIEW/EDIT YOUR ANSWERS button.
- 7. Select your filing fee payment option**
If you did not request a filing fee waiver, you may pay the \$35 filing fee online using a credit card, in person, or via U.S. mail.
- 8. Click SUBMIT and log out**
The TurboCourt program will electronically send your documents to the court for processing. TurboCourt will also let you know when your documents have been officially filed with the court. Be sure to check your email regularly.

IMPORTANT: After your case has been officially filed with the court, follow the steps in the Instructions for Filer and the Service of Process Information Sheet. This can be found in your list of documents in the TurboCourt program.

Tips for a Successful Negotiation

Small Claims Online Dispute Resolution (ODR) Pilot Program

Be Prepared - To help you prepare, you may want to use the ODR Worksheet before starting the ODR process. Please see page 4 of this document.

If you are unsure about your legal rights and responsibilities, you may want to visit the Hawaii State Supreme Court Law Library website for a list of legal resources:
<https://hstatelawlibrary.com/legal-resources/legal-services/>

Be Focused - The purpose of ODR is to assist you and the other party reach an agreement in a convenient way. You and the other party can negotiate and decide on the payment amount, payment dates, and other agreements to resolve the case. Stick to these subjects during ODR.

Be Complete - You and the other party should resolve all the claims in the case. This includes counterclaims that the defendant may have filed against the plaintiff.

The Settlement Agreement will need to address all of the following items:

- Who will pay
- The amount to be paid
- When payment will be made
- How the payment will be made

If you and the other party reach an agreement, ODR will ask how you want to resolve your court case. You and the other party need to agree on this too. The options are:

- Ask the court to dismiss the case
- Ask the court to continue the hearing date until all agreed payments have been made
- Ask the court for a judgment

Be Clear and Open - Help the other party understand you and do your best to understand their side. Consider using the ODR chat to politely and clearly explain your offer and ask questions about the other party's offer. You can also share documents to support your position. See the next page for an example of an ODR negotiation.

Be Careful - Before sending your offer and chat messages to the other party, you may want to do the following:

- Double check your numbers and dates
- Read it out loud to yourself to see how your message sounds

Be sure to read offers from the other side and ask questions if you do not understand what is being offered.

If you need legal assistance, please visit the Hawai'i State Judiciary Self-Help Centers to speak with a volunteer attorney. More information is available on the Judiciary website: https://www.courts.state.hi.us/general_information/access_to_justice_rooms_self_help_centers

Sample ODR Negotiation

The following sample negotiation provides you with a general idea about how ODR may work. *Your case may be different from this example.*

Sample Case: Plaintiff filed a small claims case against defendant for the return of a rental unit deposit in the amount of \$1,000.

Defendant: There was damage to the rental unit when you left. I'm using your deposit to pay for those damages. It's going to be around \$750. I'm attaching a copy of the repair quote. I can refund you \$250.

Plaintiff: Thanks for sharing the repair quote. I see some of the repair is for the broken window screens but the other repair work seems to be for normal wear and tear. I'm willing to come down to \$800.

Defendant: The damages are more than wear and tear but I'm willing to pay you \$500 on April 15 to settle this case.

Plaintiff: I can accept \$650. I also need the payment by April 1 so I can pay some bills at the start of the month.

Defendant: Ok, I can do \$650 on April 1. Can you also dismiss this case with the court?

Plaintiff: Ok, I'll dismiss the case after I receive the payment.

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

This worksheet is for your own personal use and is intended to help you prepare for ODR. You do not need to share it with the defendant(s) or anyone else.

ODR Goal

The purpose of ODR is to help you and the defendant reach an agreement instead of going through a hearing in front of a judge. ODR will ask you and the defendant 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 accept and the date(s) when payment is to be made. The ODR program will generate a **Settlement Agreement** based on the agreed upon terms by you and the defendant.

Things to think about before starting ODR

1. Are you willing to accept an amount less than your claim?

- Yes, I would be open to accepting a reduced amount. The lowest amount I am willing to accept is \$_____.
- No, I will accept only the full amount but will consider installment payments.
- No, I will accept only the full amount to be paid in one lump sum. (Your case will be referred to mediation as part of ODR if no agreement is reached during the negotiation phase.)

2. Do you have documentation that can support your claim?

You may share any documentation using ODR for the defendant to consider. Examples of documentation (evidence) may be receipts, invoices, pictures, contracts, communication, etc.

- I have the following documents that support my claim:

3. Making an offer

You may make an initial offer to the defendant or wait for the defendant to make the first offer. In making an offer, you may want to consider what amount is realistic to you and what amount will the defendant most likely accept.

- I will accept a one-time payment. \$_____ Payment date: _____
- I will accept a weekly/monthly payment. \$_____/ week or month First payment date: _____
Next payment dates: _____
Final payment date: _____
- I will accept an installment payment. \$_____/each Payment Dates: _____

4. Did the defendant file a “Counterclaim” against you? If so, include that counterclaim in your negotiation so there is one final Settlement Agreement for the whole case (your claim and the defendant’s counterclaim).

- I am willing to accept \$ _____ to settle my claim against defendant.
I am willing to offer \$ _____ to settle defendant’s counterclaim against me. This will offset the total settlement amount.

The total amount I am willing to accept from defendant to settle both claims is \$ _____.

- | | | |
|----------|-----------------|---|
| Example: | \$2,000 | The amount I am willing to accept to settle my claim |
| | - 800 | The amount I am offering to settle defendant’s counterclaim. |
| | \$ 1,200 | The amount I am willing to accept from defendant to settle both claims. |

not agree with defendant’s counter claim. (You may wish to use the ODR Defendant’s worksheet. You may find this in the Judiciary website: <https://www.courts.state.hi.us/small-claims-online-dispute-resolution>)

5. Responding to defendant’s offer.

- Do you understand the terms of the offer? Ask questions using the ODR chat function if you don’t.
- Do you need a different payment date? Make a counter offer with a different payment schedule.
- Does the offer meet most of your needs? Make a reasonable counter offer.

6. Closing the court case.

Remember that a court case has been started. You and the defendant will also need to agree on one of the following:

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

If you and the defendant cannot come to an agreement, your case will be referred to mediation as part of ODR. You can also request a mediator at any time during ODR. The mediator is not a judge. The mediator is there to assist you and defendant come to an agreement.

If you need legal assistance, please visit the Hawaii State Judiciary Self-Help Center to speak with a volunteer attorney. More information is available on the Judiciary website:
https://www.courts.state.hi.us/general_information/access_to_justice_rooms_self_help_centers