



# Debt collections from a litigant's perspective

October 27, 2023

# Mission

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*To promote the rule of law  
and to improve the administration  
of justice in the state courts  
and courts around the world.*

# Access to Justice

*When access for all has been achieved, everyone will have the information and assistance they need to address civil legal needs, when and where they need it, and in a format that they can use.*

# Access to Justice

*1. Rethinking, simplifying, and improving court procedures and requirements*

*2. Increasing access to legal information and legal advice*

*3. Increasing access to court proceedings and services*

*4. Improving how courts communicate with and engage community members*

# Where we're going

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- » **How debt is acquired**
- » **The debt collection industry**
- » **Debt collection cases**
- » **Strategies for reform**

# Types of consumer debt

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- Credit cards—70%
- Auto loans—31%
- Medical debt—13.5%



# Who is paying the most?

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- 58% living paycheck-to-paycheck
- 70 million people with debts turned over to debt collectors
- 1 in 4 adults in general
- 1 in 3 people of color

**DEBT COLLECTION LAB**

[www.debtcollectionlab.org](http://www.debtcollectionlab.org)

# Credit cards

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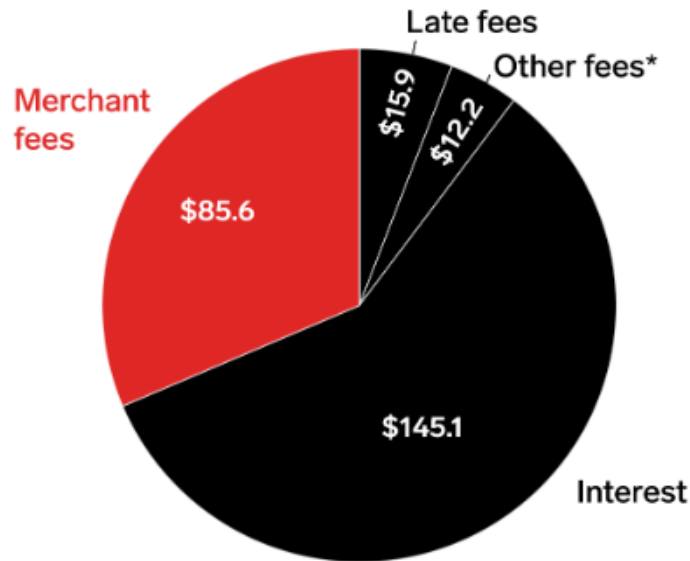
- 70% in U.S. have credit cards
- Ohio ranks 38th with average \$6,394 credit card debt.
- 65% carry a balance some of the time.
- 46% say it would take them at least a year to pay it off.
- Average APR = 24.45%



# Total cost of credit

## Total Projected US Consumer Credit Card Revenues, 2022

billions



Total consumer credit card revenues: **\$258.8**

- Average \$930/year cost to card users
- Skewed higher for subprime and delinquent

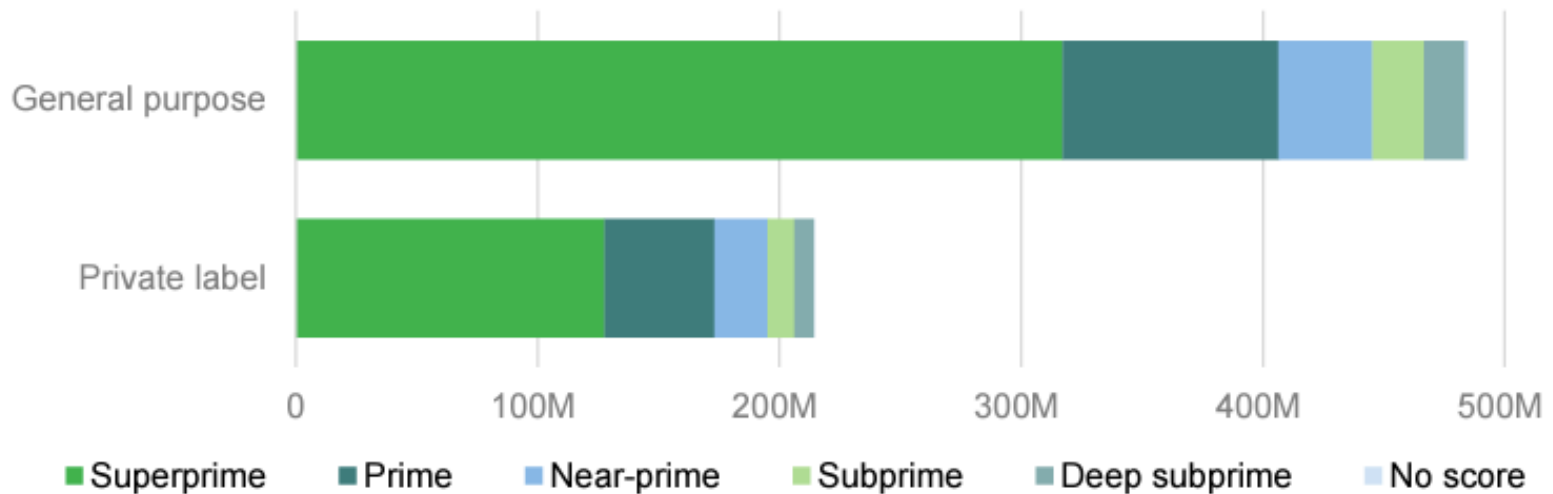
# Total cost of credit

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- TCC captures the totality of payments on credit cards as an annual percentage
- Interest = around 80%
- Fees = around 20%
- Effects people with revolving balances
- Subprime credit practices = more likely default and higher costs

# Total cost of credit

Figure 1: CREDIT CARD ACCOUNTS, YEAR-END 2020 (CCP)

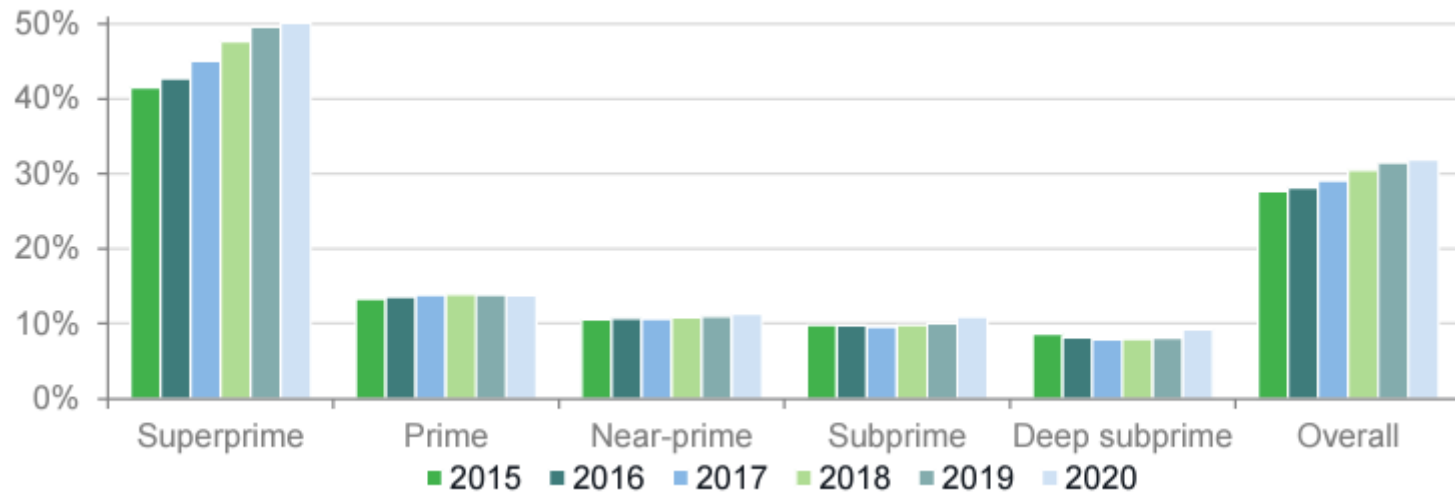


Consumer Financial Protection Bureau  
The Consumer Credit Card Market, September 2021

# Total cost of credit

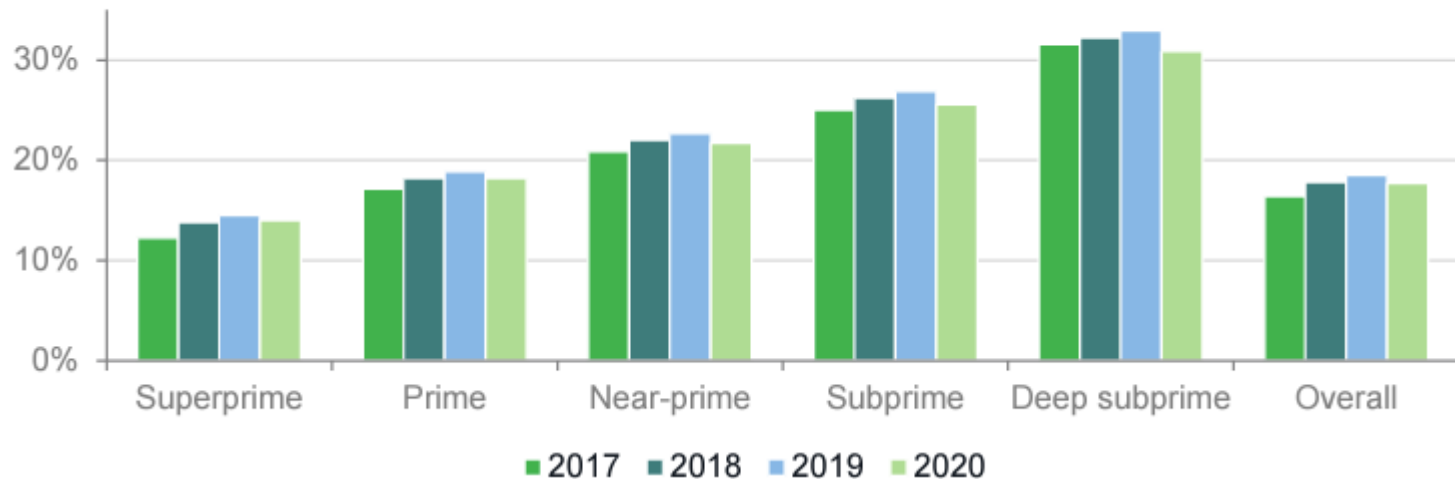
Monthly payments for non-superprime cardholders < 17% balance

**Figure 10:** PAYMENT RATE, GENERAL PURPOSE (Y-14+)



# Total cost of credit

**Figure 1:** TOTAL COST OF CREDIT, REVOLVING ACCOUNTS, GENERAL PURPOSE (Y-14+)



# The debt collection industry

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- Debt purchased expected average price ranging from \$0.10 to \$0.12 per dollar of debt.
- Nationally, around 70% default judgment rate

# The debt collection industry

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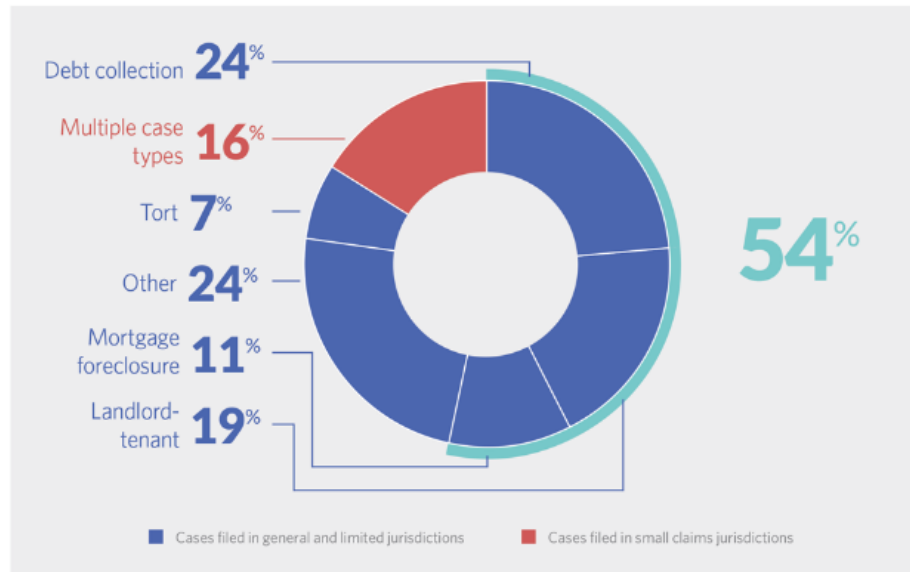
“From 1993 to 2013, the number of debt collection suits more than doubled nationwide, from less than 1.7 million to about 4 million, and consumed a growing share of civil dockets, rising from an estimated 1 in 9 civil cases to 1 in 4.”

PEW, How Debt Collectors Are Transforming the Business of State Courts, May 6, 2020.

# The debt collection industry

## More Than Half of Civil Litigation in 2013 Involved Suits Brought by Businesses Against Individuals

Estimated share of state civil cases by type



Note: Percentages do not add up to 100 percent because of rounding.

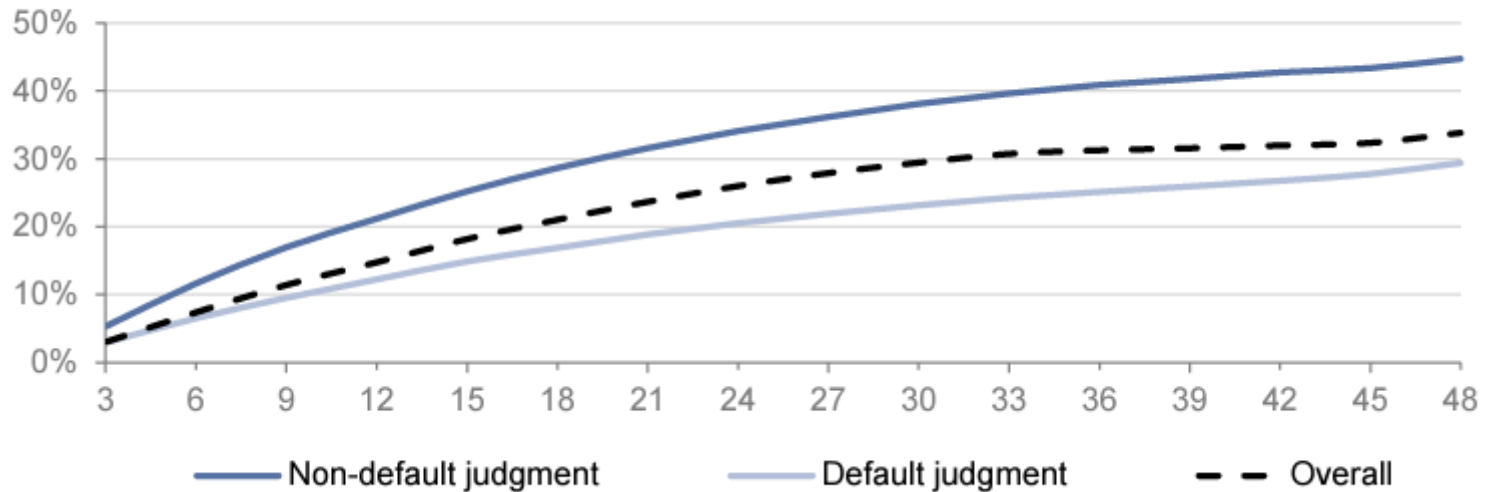
Source: P. Hannaford-Agor, S.E. Graves, and S.S. Miller, "The Landscape of Civil Litigation in State Courts" (2015), <https://www.ncsc.org/-/media/Files/PDF/Research/CivilJusticeReport-2015.ashx>

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# The debt collection industry

Figure 10: CUMULATIVE RECOVERY RATES BY MONTHS SINCE JUDGMENT WAS RECEIVED (MMI)



# Garnishments

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- Garnishment = 25% “disposable income”
- No hardship or head of household exemption in OH
- Nationally, 58% living paycheck-to-paycheck
- 45% have an emergency fund, with 26% having less than \$5,000 saved

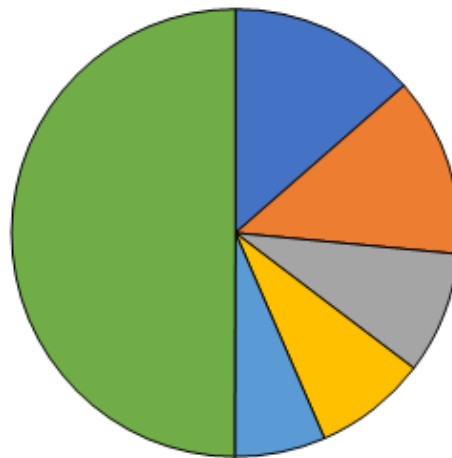
# Hamilton Co., OH Municipal Court

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- 11,298 cases filed in 2022
- F-classification = contract suits over \$500
- 3.5% defendants represented by counsel
- Practically all plaintiffs represented by counsel
- Not small claims court regardless of amount at issue

# Who is filing cases?

Debt collection plaintiffs  
2022



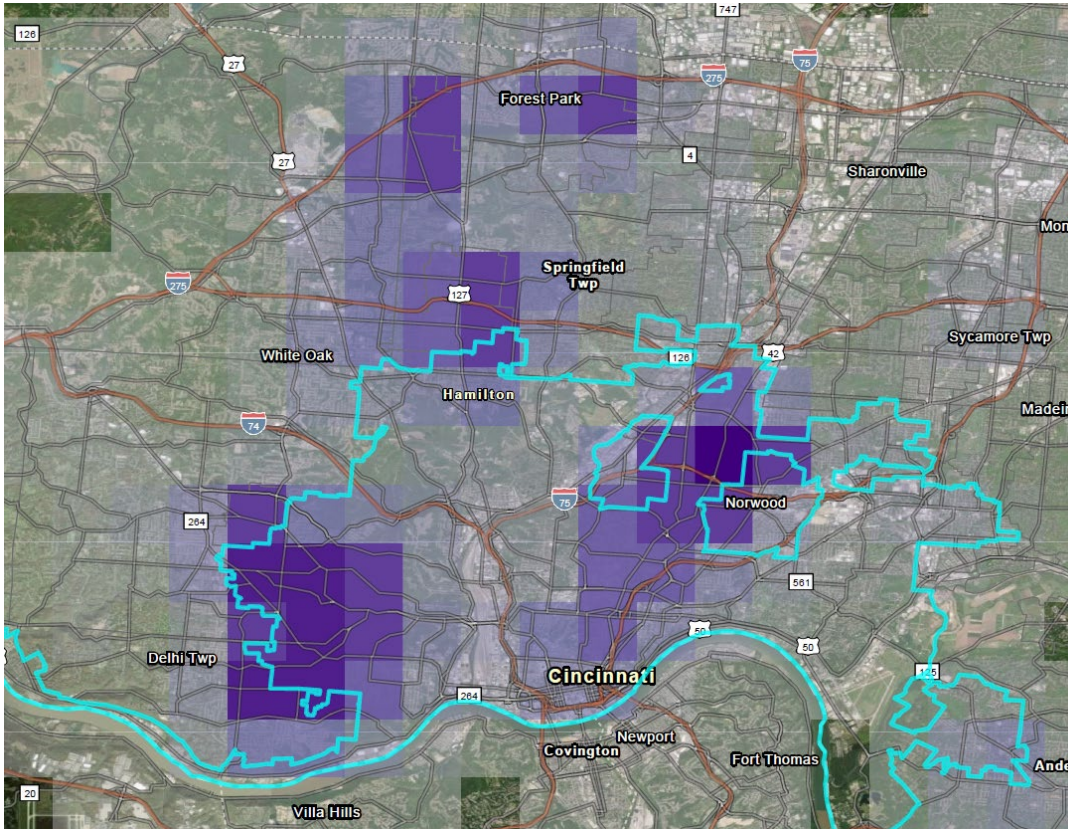
■ LVNV Funding

■ Credit acceptance Corp. ■ Trihealth

■ Midland Funding

■ Portfolio Recovery Assot. ■ All other plaintiffs

# Where are debt cases happening?

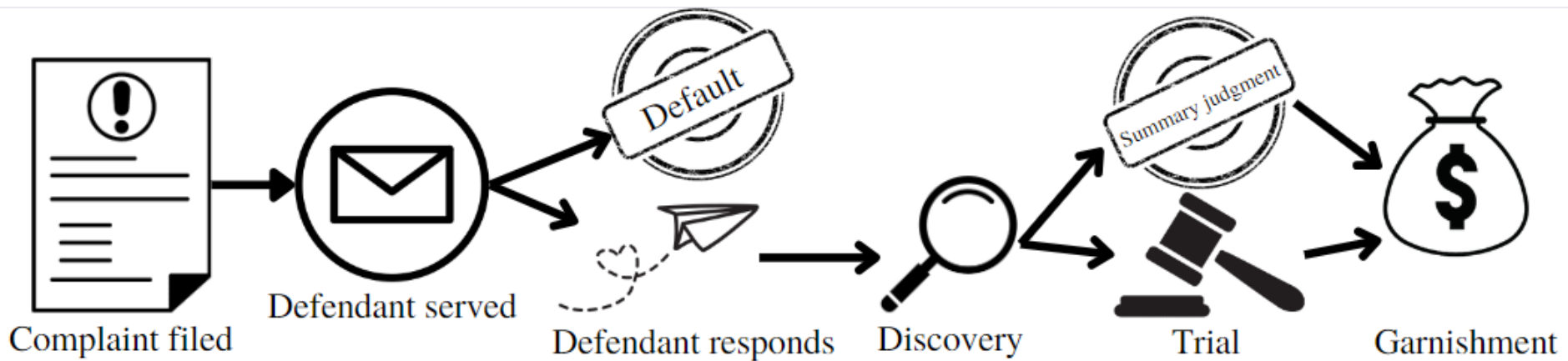


Concentrations:

- Price Hill
- Bond Hill
- College Hill
- Mt. Healthy
- Springdale

# The court process 1,000 ft. view

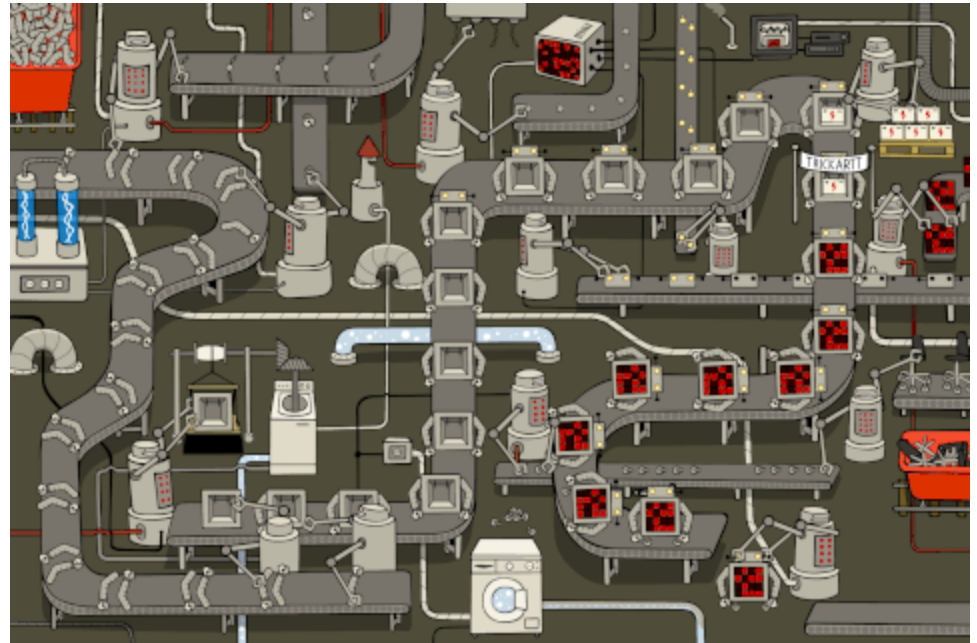
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# For plaintiffs: Automated litigation

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- Majority of cases litigated with no or few court appearances
- Cases have predictable steps
- Close to standardized pleadings
- E-filing highly accessible and convenient



# For defendants...

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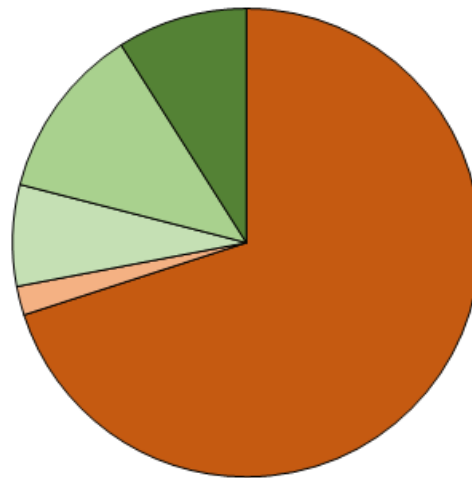


- Court process is counterintuitive
- Important procedural steps don't coincide with appearances
- E-filing confusing and inconvenient
- Pleadings difficult to understand or respond to



# How are cases resolved?

Case Dispositions  
January - June 2022



- Default judgment
- Summary judgment
- Agreed judgment
- Dismissed- voluntary
- Dismissed for want of prosecution

# Default judgments

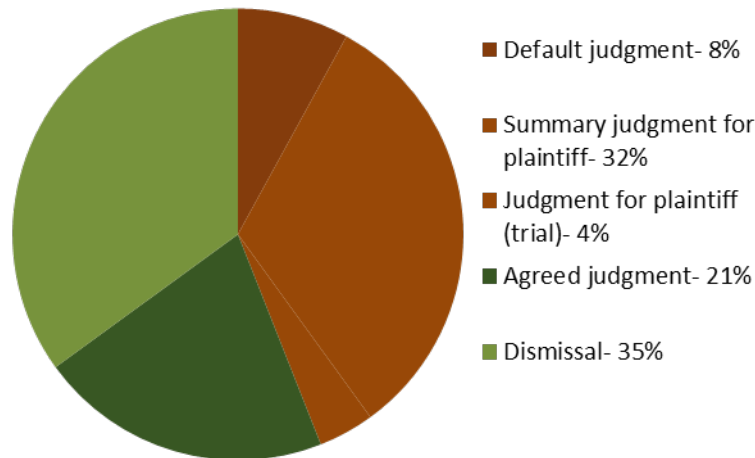
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- 7,910 default judgments in 2022
- \$23,804,793 awarded in default judgments in 2022
- Average judgment = \$3,755

# Responding is good

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- 2018 Help Center-assisted in filing answers = 25% “positive” outcome





# Service vs. actual notice

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- Formal civil rules are a proxy for actual notice
- Usually accomplished by certified mail
- Practices of mail carriers on the ground have a big effect



# Some ideas:

## Service modernization



- Email, phone, social media notice requirements
- Alternative service rules
- Legal Notice websites
- Track return mail from the court

NCSC, Service Modernization Brief  
August 2022

# Responding is difficult

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## Ohio Civ. R. 8(b)

A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If the party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part of a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, the pleader may make the denials as specific denials or designated averments or paragraphs, or the pleader may generally deny all the averments except the designated averments or paragraphs as the pleader expressly admits; but, when the pleader does intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial subject to the obligations set forth in Civ.R. 11.



# Responding is difficult

Hamilton County Municipal Court  
1000 Main St. Rm. 115 Cincinnati, Ohio 45202

TO:

[REDACTED]

State of Ohio  
County of Hamilton, S  
City of Cincinnati

A complaint has been filed against you with this court on behalf of the following named Plaintiff,

[REDACTED]

COPY OF COMPLAINT  
ATTACHED HERewith

**IT IS STRONGLY RECOMMENDED THAT YOU CONSULT AN ATTORNEY**

The complaint of plaintiff will be taken as true, and a Default Judgment will be rendered against you, unless you do the following:

1. Within 28 days after you receive this summons, serve a written answer upon the Plaintiff's Attorney, if any, or upon the Plaintiff.  
The following is the name and address of the attorney for the Plaintiff, if any, otherwise see name and address of the plaintiff above.

[REDACTED]

2. Within 3 days thereafter, file a copy of that answer with the Clerk of Courts, Room 115 Hamilton County Courthouse, Cincinnati, Ohio 45202. Your answer must contain a Certification by you of the date and how you served a copy of the written answer upon the Plaintiff, or his Attorney.



# Some ideas:

## Process simplification

- Summons reforms
- Better forms
- Easy e-filing
- Access to legal info & advice



# Response rate study

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- Harvard A2J Lab
- Randomized study
- Sending mailer and redesigned answer form
- Measuring
  - Default rate
  - Connections to legal help
  - Effect on case outcomes



# What if.....

## Eviction and Money Claim Court Summons from Hamilton County Municipal Court

Dear Anne Marie Vallone,

Your landlord is suing to evict you from 500 Sycamore Street, Apartment 2B, Fairfield 45202. Your landlord is also suing you for money.

### Eviction Lawsuit

**When** March 20, 2019 at 10am. Come at least one hour early. The security lines will be long. If you are late, you may be evicted automatically.

**Where** Hamilton County Courthouse, Room 121, 1000 Main St. Cincinnati, OH, 45202.

### Money Lawsuit

**File an Answer.** If you disagree that you owe money, file an Answer. You only have 28 days after you received this Summons. File it in room 115 of the courthouse. After you file, the court will set a second trial date.

**Don't ignore this eviction.** You could be given 7 days or less to leave your home. If you do not file an Answer, the landlord may win a judgment against you for all of the money they claim you owe. If you don't go to court, your landlord can evict you automatically.

### Get Help

- **Speak With a Free Lawyer.**  
Call the Help Center at 513-946-5650 to make a free 40 minute appointment with a lawyer. They cannot represent you in court. For more information, visit room 113 of the Hamilton County Courthouse or visit [www.cincyhelpcenter.org](http://www.cincyhelpcenter.org).
- **Find a Lawyer to Represent You in Court.**  
Call Legal Aid at 513-241-9400. If you qualify for a free lawyer, Legal Aid could represent you in court.  
Hire a private lawyer. Visit [www.cincybar.org](http://www.cincybar.org) or call 513-381-8213.
- **Seek Help Paying Rent.**  
Call United Way at 211, to see if you qualify.
- **Request a translator or accommodation for a disability.**  
Call the court at 513-946-5200.

A COMPLAINT TO EVICT YOU HAS BEEN FILED WITH THIS COURT. NO PERSON SHALL BE EVICTED UNLESS THE PERSON'S RIGHT TO POSSESSION HAS ENDED AND NO PERSON SHALL BE EVICTED IN RETALIATION FOR THE EXERCISE OF THE PERSON'S LAWFUL RIGHTS. IF YOU ARE DEPOSITING RENT WITH THE CLERK OF THIS COURT YOU SHALL CONTINUE TO DEPOSIT SUCH RENT UNTIL THE TIME OF THE COURT HEARING. THE FAILURE TO CONTINUE TO DEPOSIT SUCH RENT MAY RESULT IN YOUR EVICTION. YOU MAY REQUEST A TRIAL BY JURY. YOU HAVE THE RIGHT TO SEEK LEGAL ASSISTANCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY CONTACT YOUR LOCAL LEGAL AID OR LEGAL SERVICE OFFICE. IF NONE IS AVAILABLE, YOU MAY CONTACT YOUR LOCAL BAR ASSOCIATION.



Your Case Number  
CV-1602-4000

**Case caption**  
Richard Osborne vs. Anne Marie Vallone  
**Landlord, Richard Osborne**  
400 Sycamore Street  
Cincinnati, OH 45202

**Landlord's attorney,**  
Elizabeth Levinsky  
500 Sycamore Street  
Cincinnati, OH 45202  
513-224-5698

**Tenant, Anne Marie Vallone**  
634 Sycamore Street  
Cincinnati, OH 45202

**Certified Mail Number**  
9400 3000 0000 0000 0000  
00

**Bailiff's Code**  
12778800995

**Date Created**  
March 15, 2019

**Clerk's signature**



Hamilton County Courthouse,  
1000 Main Street

Get help by **texting HELP**  
to 513-555-5555  
Your code is  
SUMC-123-123

- Procedural measures better ensure notice
- User-centered summons design
- QR code links to
  - e-filing a mobile-friendly answer form
  - legal info and assistance
  - Mediation services

# Default judgments

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- 70% of cases
- About 150 DJs/week
- Difficult to check whether plaintiff met requirements:
  - Service
  - standing
  - statute of limitations



# Some ideas: Default reforms

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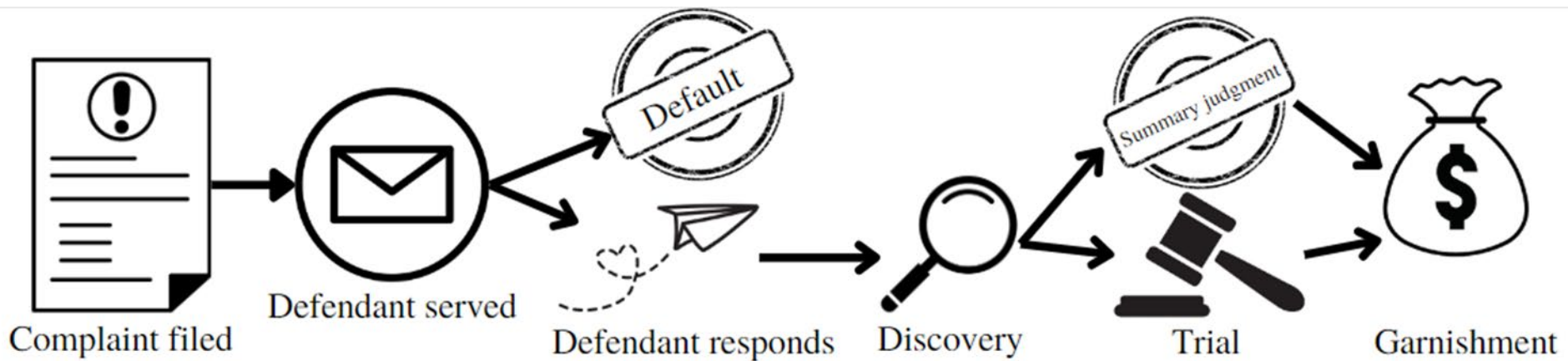


Judicial review for

- Service
- Statute of limitations
- Evidence of ownership/assignment of debt
- Amount:
  - Original amount
  - Charges/fees
  - Interest
  - Payments

# Litigating debt cases

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# Discovery & Summary Judgment

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## Discovery

- Most often done between parties without court filings
- Unclear whether or how to respond
- Some people don't receive it

## Summary Judgment

- Often over 50 pages of legalese
- Trial date usually set
- Responding is difficult

# What about settling?

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- Must litigate case while attempting to settle it
- Without procedural path to settling:
  - Debt collector sets terms of negotiations
  - Settlements are not fostered early in the process





# Garnishments

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- Garnishment = 25% “disposable income”
- No hardship or head of household exemption in OH
- May be first person became aware they were sued
- Garnishment hearings on narrow procedural issue

# Some ideas:

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- Alternative dispute resolution
- Plain language pleadings and notifications
- Legal info & advice
  - Understanding options
  - Process navigation
  - Substantive legal help
  - Holistic connections to resources



# Some more ideas (in closing)

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- Legal issues don't happen in a vacuum
  - Holistic view opens possibilities
- Embrace data
- Big initiatives/rule changes
  - ADR, summons, service, default reform
- Low hanging fruit
  - Forms, wayfinding, signage, procedural inefficiencies that hurt litigants



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