

MARTIN O'MALLEY
Governor

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Lt. Governor

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Commissioner

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Bulletin: Property and Casualty 07-15

To: Property and Casualty Insurers and All Interested Parties

Re: Implementation of SB ~~839~~ 389

Date: September 28, 2007

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The purpose of this Bulletin is:

- to identify the forms that must be completed and accompany the filing of a Section 27-1001 Civil Complaint with the Administration;
- identify the manner in which property and casualty insurers are to notify the Administration of the person it has designated as its authorized representative to receive Section 27-1001 filings from the Administration; and
- to identify the new forms which property & casualty insurers must utilize in reporting information to the Administration as required by Section 27-1001 of the Insurance Article and COMAR 31.08.11.01 et seq..

I. Background

Section 3-1707 of the Courts and Judicial Proceedings Article and Section 27-1001 of the Insurance Article was enacted by Chapter 150, Acts 2007 and signed into law by Governor Martin O'Malley. The new law becomes effective October 1, 2007.

This law authorizes the award of enhanced damages in civil actions that arise out of first party property and casualty insurance claim disputes where the plaintiff proves that the insurer failed to act in good faith.¹ It also creates special procedures that must be followed for certain cases that allege the absence of good faith and that seek those enhanced damages. Specifically, the law requires that a

¹ In addition, the law makes the failure of a property and casualty insurer to settle a first party insurance claim in good faith a violation of the Unfair Claim Settlement Practices Act and authorizes enhanced administrative sanctions for violations. However, those changes are not addressed in this Bulletin.

civil action stating a cause of action under Section 3-1701 of the Courts and Judicial Proceedings Article must first be filed with the Administration.²

II. Forms Required for the Filing of a Section 27-1001 Civil Complaint

For all civil actions filed under Section 27-1001 of the Insurance Article, the Plaintiff shall complete and attach to the civil complaint a Civil Cover Sheet attached hereto as Exhibit 1. This Civil Cover Sheet is available to everyone and it can be obtained by going to the Administration's website (www.mdinsurance.state.md.us), coming to the Administration's offices located at 525 St. Paul Place, Baltimore, Maryland 21202, and/or by mail at the request of the Plaintiff.

III. Manner in which Property and Casualty Insurers are to Designate its 27-1001 Filing Receiver

Each property and casualty insurer which issues, sells or delivers policies that include first party coverage in the State shall designate a person authorized to receive 27-1001 Filings from the Administration. Such designation, including the person's name and address, shall be made either electronically or by mail. The designation shall list each company (including its NAIC number) for whom the person is acting as the designee. If the designation by the insurer is sent to the Administration electronically, it should be emailed to: appealsclerkcontacts@mdinsurance.state.md.us

If the insurer sends the designation by mail, it should be sent to:

Maryland Insurance Administration
27-1001 Appeals Clerk/Contacts
P.O. Box 388
Baltimore, Maryland 21203

Please recall that the failure of a property and casualty insurer to designate a person authorized to receive 27-1001 Filings from the Administration will result in the 27-1001 Filings being forwarded to the person previously identified by the insurer to receive process that has been served on the Commissioner as attorney-in-fact.

IV. Forms Required to be completed by Property and Casualty Insurers for 27-110 Filings and for 3-1701 Filings [Refer to 2008 Amended Filing Instructions]

Each property and casualty insurer that is served with a 27-1001 Filing that is initially filed with the Administration and then becomes subject to further adjudication shall complete a Notice of Disposition Form and submit it to the Administration within 30 days of the disposition by any adjudicatory body with regard to the civil action. The Notice of Disposition Form is attached hereto

² This requirement has certain exceptions. A complaint alleging an absence of good faith on the part of a property and casualty insurer involving a first party insurance claim dispute does not have to be filed with the Administration if it is an action that falls within the small claim jurisdiction of the District Court under §4-405 of the Courts and Judicial Proceedings Article, if the insured and insurer agree to waive the requirement that the case first be filed with the Administration, or if the claim is made under a commercial property and casualty insurance policy and the applicable limit of liability exceeds \$1,000,000.00.

as Exhibit 2 and is to be supplied to the Administration in an excel spread sheet format containing all the listed information.³

Each property and casualty insurer that is served with a civil complaint that alleges an absence of good faith and seeks enhanced damages under Section 3-1701 of the Courts and Judicial Proceedings Article, but was not originally filed with the Administration shall file a Notice of Pending Complaint and submit it to the Administration within 30 days of service of process. The Notice of Pending Complaint is attached hereto as Exhibit 3 and is to be supplied to the Administration in an excel spread sheet format containing all the required information.⁴

These forms, the Notice of Disposition and the Notice of Pending Complaint, are to be updated as the civil action proceeds through each level of adjudication and as each adjudicatory body issues a disposition.

Questions regarding the information provided in this Bulletin should be directed to Randi Johnson, Associate Commissioner, Property and Casualty, by telephone at 410-468-2301 or by email at prjohnson@mdinsurance.state.md.us. Questions regarding the insurers reporting of the Notice of Disposition or Notice of Pending Complaint should be direct to Pam Hirsch, Management Information Systems, by telephone at 410-468-2346 or by email at phirsch@mdinsurance.state.md.us

RALPH S. TYLER
Insurance Commissioner

By _____
P. Randi Johnson
Associate Commissioner
Property & Casualty

³ Currently, the Administration is requiring this information to be submitted in an excel spreadsheet; however, it is looking into an "on line" reporting method and will advise all property and casualty insurers when such an on line reporting mechanism is available to them.

⁴ Id.

EXHIBIT 1
MARYLAND INSURANCE ADMINISTRATION
P.O. BOX 388, BALTIMORE, MD 21203
§ 27-1001 CIVIL COMPLAINT CASE INFORMATION COVER SHEET

INSTRUCTIONS

*Pursuant to COMAR 31.08.11, plaintiffs who are required by §3-1701 of the Courts and Judicial Proceedings Article and § 27-1001 of the Insurance Article to file a Complaint stating a cause of action that is subject to § 3-1701 of the Courts and Judicial Proceedings Article with the Maryland Insurance Administration (MIA) in advance of filing with the circuit court must complete this Civil Complaint Case Information Cover Sheet and submit it to the MIA along with an original and two copies of the Complaint and attachments. In addition, the MIA requests, **but does not require**, that plaintiffs submit the entire filing on a CD-ROM in PDF format.*

§ 27-1001 Civil Complaint Filings must be sent to the MIA as follows:

- (a) via first class mail in an envelope clearly marked in the lower left hand corner "§ 27-1001 FILING" addressed to the Appeals Clerk, Maryland Insurance Administration, Post Office Box 388, Baltimore, Maryland 21203;*
- (b) via a commercial overnight delivery service addressed to: § 27-1001 Appeals Clerk, Maryland Insurance Administration, 525 St. Paul Place, Baltimore, Maryland 21202; or*
- (c) via hand delivery between the hours of 8 a.m. and 4 p.m. to the Maryland Insurance Administration, 525 St. Paul Place, Baltimore, Maryland 21202 in an envelope clearly marked in the lower left hand corner "§ 27-1001 FILING" and addressed to the Appeals Clerk.*

PLEASE SUPPLY THE FOLLOWING INFORMATION

The name of each plaintiff:

The name, law firm name, mailing address, email address, and workday telephone number of counsel for the plaintiff(s) or, if there is no counsel, for each plaintiff:

The name of each insurance company that is the subject of the complaint:

Is there a related civil action or an administrative complaint pending? If yes, please identify the case name and number and the tribunal before which the related matter is pending:

PLEASE COMPLETE THE FOLLOWING SECTION

Comment: Only certain claims under certain insurance policies are subject to filing with the MIA. This section is intended to assure that your complaint is subject to filing with the MIA under § 3-1701 and that the complaint includes the materials and the information required by § 27-1001. A complaint that does not fall within the MIA's subject matter jurisdiction will be returned.

Check all that apply

The complaint seeks to determine:

- the coverage that exists under an insurance policy;
- how much the insured is entitled to receive as payment from the insurer for a covered loss; or
- both.

The complaint arises out of a first-party insurance claim that was made under a policy of property and/or casualty insurance that was issued, sold, or delivered in the State of Maryland.

The complaint alleges that the insurer failed to act in good faith.

The complaint seeks:

- Actual damages in the amount of _____;
- Expenses and litigation costs in the amount of _____;
- Interest in the amount of _____.

Note: You must provide this information under § 27-1001.

The complaint is not within the small claims jurisdiction of the District Court of Maryland; that is, the complaint does not seek actual damages of \$5,000 or less.

The insurer(s) and the insured(s) have not agreed to waive the submission of this complaint to the MIA.

The insurance claim at issue is not a claim under a policy of commercial insurance with respect to which the applicable limit of liability exceeds \$1 million.

The complaint is accompanied by each document that the insured has submitted to the insurer for proof of loss.

The complaint specifies the applicable insurance coverage.

In addition, please provide the following information regarding the insurance policy at issue:

Personal insurance homeowners fire and/or dwelling auto personal excess/umbrella inland marine other: _____	Commercial insurance general liability auto professional property inland marine excess/umbrella other: _____
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Date: _____

Signature _____

EXHIBIT 2

27-1001 Notice of Disposition

Insurer Name & NAIC #: _____

(a) What adjudicatory body which issued the disposition?

Select the following adjudicatory body:

- Office of Administrative Hearings (OAH)**
- Circuit Court**
- District Court**
- Court of Special Appeals**
- Court of Appeals**

Select the city/county in which your court is located?

Circuit Court

<input type="checkbox"/> Allegany	<input type="checkbox"/> Carroll	<input type="checkbox"/> Harford	<input type="checkbox"/> Somerset
<input type="checkbox"/> Anne Arundel	<input type="checkbox"/> Cecil	<input type="checkbox"/> Howard	<input type="checkbox"/> St. Mary's
<input type="checkbox"/> Baltimore City	<input type="checkbox"/> Charles	<input type="checkbox"/> Kent	<input type="checkbox"/> Talbot
<input type="checkbox"/> Baltimore	<input type="checkbox"/> Dorchester	<input type="checkbox"/> Montgomery	<input type="checkbox"/> Washington
<input type="checkbox"/> Calvert	<input type="checkbox"/> Frederick	<input type="checkbox"/> Prince George's	<input type="checkbox"/> Wicomico
<input type="checkbox"/> Caroline	<input type="checkbox"/> Garrett	<input type="checkbox"/> Queen Anne's	<input type="checkbox"/> Worcester

District Court

<input type="checkbox"/> Allegany	<input type="checkbox"/> Carroll	<input type="checkbox"/> Harford	<input type="checkbox"/> Somerset
<input type="checkbox"/> Anne Arundel	<input type="checkbox"/> Cecil	<input type="checkbox"/> Howard	<input type="checkbox"/> St. Mary's
<input type="checkbox"/> Baltimore City	<input type="checkbox"/> Charles	<input type="checkbox"/> Kent	<input type="checkbox"/> Talbot
<input type="checkbox"/> Baltimore	<input type="checkbox"/> Dorchester	<input type="checkbox"/> Montgomery	<input type="checkbox"/> Washington
<input type="checkbox"/> Calvert	<input type="checkbox"/> Frederick	<input type="checkbox"/> Prince George's	<input type="checkbox"/> Wicomico
<input type="checkbox"/> Caroline	<input type="checkbox"/> Garrett	<input type="checkbox"/> Queen Anne's	<input type="checkbox"/> Worcester

(b) The case name and number before that adjudicatory body, as well as the case name and number of any underlying or prior dispositions with respect to that Complaint:

Case Name:	Court/Any underlying or prior dispositions
List Names	

Case Number:	Court/Any underlying or prior dispositions
List Numbers	

(c) Whether the Complaint sought a determination as to coverage and/or alleged a failure by the Defendant Insurer to adequately value and/or pay the underlying insurance claim:

Please select:

- Coverage
- Value
- Both coverage and value

(d) The type of coverage at issue in the Complaint, such as AutoUM/UIM, Homeowner's, Commercial General Liability, etc.:

Please select:

Auto

<input type="checkbox"/> Private Passenger
<input type="checkbox"/> Group Private Passenger
<input type="checkbox"/> Commercial
<input type="checkbox"/> Motorcycle
<input type="checkbox"/> Motorhome/Recreational Vehicle
<input type="checkbox"/> Motorsport
<input type="checkbox"/> Rental
<input type="checkbox"/> Other

Fire, Allied Lines & CMP

<input type="checkbox"/> Fire & Allied Lines
<input type="checkbox"/> Crop/Hail
<input type="checkbox"/> Commercial Multi-Peril
<input type="checkbox"/> Credit Property
<input type="checkbox"/> Dwelling Fire
<input type="checkbox"/> Builder's Risk
<input type="checkbox"/> Other

Homeowners

<input type="checkbox"/> Homeowners
<input type="checkbox"/> Group Homeowners
<input type="checkbox"/> Farm/Ranchowners
<input type="checkbox"/> Mobile Homeowners
<input type="checkbox"/> Condo/Town
<input type="checkbox"/> Renters/Tenants
<input type="checkbox"/> Other

Liability

<input type="checkbox"/> General Liability
<input type="checkbox"/> Products Liability
<input type="checkbox"/> Professional Errors & Omissions
<input type="checkbox"/> Umbrella
<input type="checkbox"/> Directors & Officers
<input type="checkbox"/> Other

Miscellaneous

<input type="checkbox"/> Inland Marine
<input type="checkbox"/> Watercraft
<input type="checkbox"/> Aircraft

(e) The amount sought as damages in the Complaint, itemized by:

(i) The amount sought as actual damages

Please enter amount \$ _____ ; and

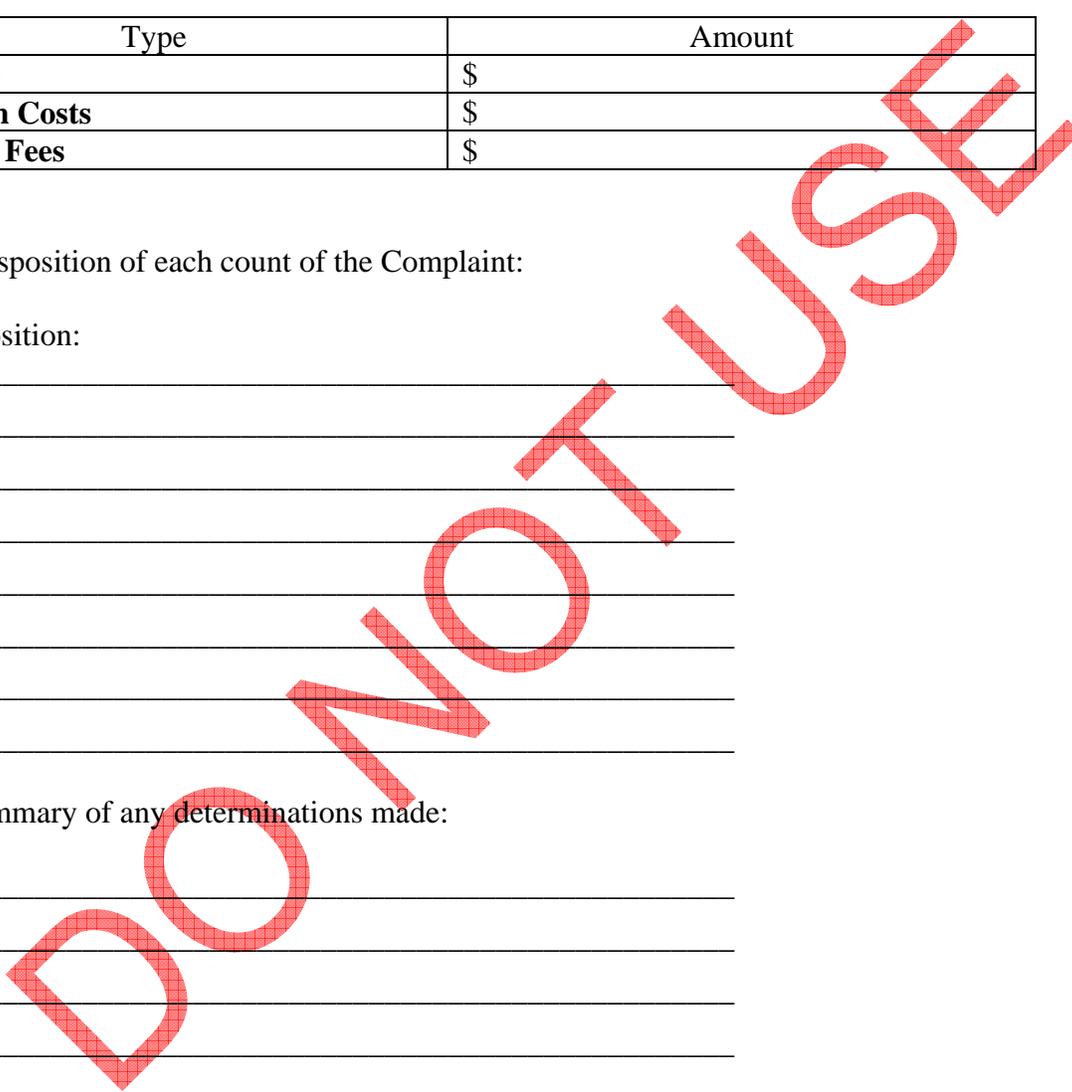
(ii) The amount sought as expenses and litigation costs, including attorney's fees:

Type	Amount
Expenses	\$
Litigation Costs	\$
Attorney Fees	\$

(f) The disposition of each count of the Complaint:

List disposition:

(g) A summary of any determinations made:



(h) A listing of any amounts awarded by the adjudicatory body:

(i) The amount awarded as actual damages

Please enter amount \$ _____ ; and

(ii) The amount awarded as expenses and litigation costs, including attorney's fees;

Type	Amount
Expenses	\$
Litigation Costs	\$
Attorney Fees	\$

(i) Whether any further proceedings before that body or another tribunal have been filed or are expected to be filed.

An appeal filed **Yes** **No**

If yes, where was the appeal filed

- Circuit Court**
- Court of Special**
- Court of Appeals**

DO NOT USE

EXHIBIT 3

3-1701 Notice of Pending Complaint

Insurer Name & NAIC #: _____

(a) The court in which the Complaint was filed:

- Circuit Court**
- District Court**
- Court of Special Appeals**
- Court of Appeals**

Select the city/county in which your court is located?

Circuit Court

<input type="checkbox"/> Allegany	<input type="checkbox"/> Carroll	<input type="checkbox"/> Harford	<input type="checkbox"/> Somerset
<input type="checkbox"/> Anne Arundel	<input type="checkbox"/> Cecil	<input type="checkbox"/> Howard	<input type="checkbox"/> St. Mary's
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<input type="checkbox"/> Caroline	<input type="checkbox"/> Garrett	<input type="checkbox"/> Queen Anne's	<input type="checkbox"/> Worcester

District Court

<input type="checkbox"/> Allegany	<input type="checkbox"/> Carroll	<input checked="" type="checkbox"/> Harford	<input type="checkbox"/> Somerset
<input type="checkbox"/> Anne Arundel	<input type="checkbox"/> Cecil	<input type="checkbox"/> Howard	<input type="checkbox"/> St. Mary's
<input type="checkbox"/> Baltimore City	<input type="checkbox"/> Charles	<input type="checkbox"/> Kent	<input type="checkbox"/> Talbot
<input type="checkbox"/> Baltimore	<input type="checkbox"/> Dorchester	<input type="checkbox"/> Montgomery	<input type="checkbox"/> Washington
<input type="checkbox"/> Calvert	<input type="checkbox"/> Frederick	<input type="checkbox"/> Prince George's	<input type="checkbox"/> Wicomico
<input type="checkbox"/> Caroline	<input type="checkbox"/> Garrett	<input type="checkbox"/> Queen Anne's	<input type="checkbox"/> Worcester

(b) The case name and number assigned to the Complaint:

Case Name _____

Case Number _____

(c) The parties to the Complaint:

List Parties and Designation (Name(s), Plaintiff and Name(s), Defendant):

(d) The reason why the Complaint was not required to be filed with the Administration prior to being filed with the court:

- Small Claim (not to exceed \$5,000)**
- Either Party has waived the right to come to the MIA**
- Commercial claim where the applicable policy limits exceeds \$1,000,000**

(e) Whether the Complaint sought a determination as to coverage and/or alleged a failure by the Defendant Insurer to adequately value and/or pay the underlying insurance claim:

- Coverage**
- Value**
- Both coverage and value**

(f) The type of coverage at issue in the Complaint, such as AutoUM/UIM, Homeowner's, Commercial General Liability, etc.:

Please select:

Auto

- Private Passenger
- Group Private Passenger
- Commercial
- Motorcycle
- Motorhome/Recreational Vehicle
- Motorsport
- Rental
- Other

Fire, Allied Lines & CMP

- Fire & Allied Lines
- Crop/Hail
- Commercial Multi-Peril
- Credit Property
- Dwelling Fire
- Builder's Risk
- Other

Homeowners

- Homeowners
- Group Homeowners
- Farm/Ranchowners
- Mobile Homeowners
- Condo/Town
- Renters/Tenants
- Other

Liability

- General Liability
- Products Liability
- Professional Errors & Omissions
- Umbrella
- Directors & Officers
- Other

Miscellaneous

- Inland Marine
- Watercraft
- Aircraft

(g) The amount sought as damages in the Complaint, itemized by:

(i) The amount sought as actual damages

Please enter amount \$ _____ ; and

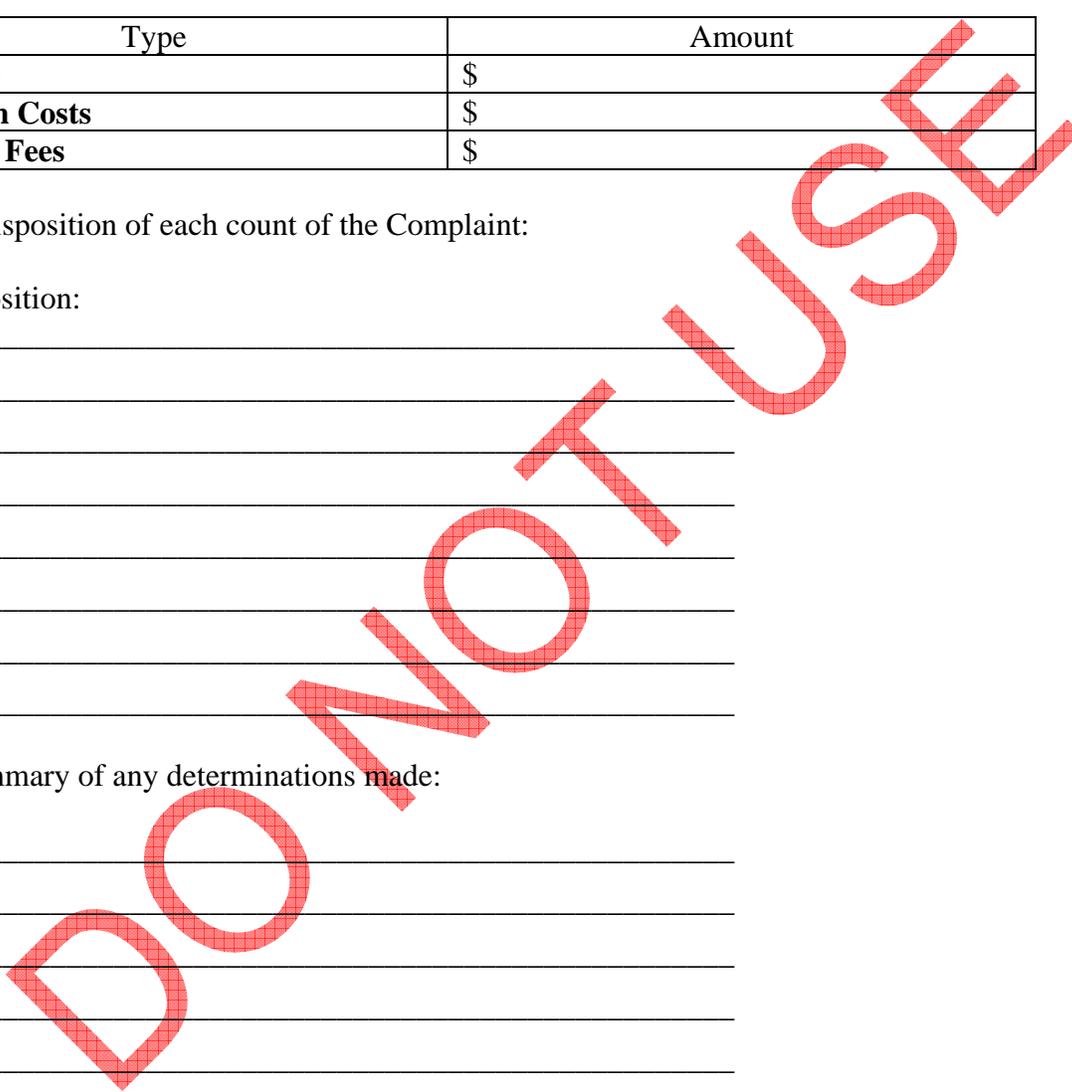
(ii) The amount sought as expenses and litigation costs, including attorney's fees.

Type	Amount
Expenses	\$
Litigation Costs	\$
Attorney Fees	\$

(h) The disposition of each count of the Complaint:

List disposition:

(i) A summary of any determinations made:



(j) A listing of any amounts awarded by the adjudicatory body:

(i) The amount awarded as actual damages

Please enter amount \$ _____ ; and

(ii) The amount awarded as expenses and litigation costs, including attorney's fees:

Type	Amount
Expenses	\$
Litigation Costs	\$
Attorney Fees	\$

(k) Whether any further proceedings before that body or another tribunal have been filed or are expected to be filed.

An appeal filed **Yes** **No**

If yes, where was the appeal filed

- Circuit Court**
- Court of Special**
- Court of Appeals**

DO NOT USE