

# SMALL CLAIMS INFORMATION

SPOKANE COUNTY DISTRICT COURT

BROADWAY CENTRE BUILDING

721 N. Jefferson Spokane, WA 99260

Mailing Address: PO Box 2352 Spokane, WA 99210-2352 FAX: (509) 477-6387

M-F 8:30 a.m. to 3:30 p.m. (509) 477-4770, ext. 8 or [www.spokanecounty.org/districtcourt/](http://www.spokanecounty.org/districtcourt/) Rvs'd 04/18/12

## Who Can Sue And Be Sued?

Any individual, sole proprietor, partnership, or corporation (with a couple of exceptions) may bring a Small Claims suit for **recovery of money only** for an amount up to **\$5,000**. A Small Claims case is generally filed in the county of the defendant's residence.

A lawsuit involving a claim for injuries to a person or property can be brought either where the injury occurred or where the defendant resides. A lawsuit involving unlawful issuance of checks may be brought either where the defendant resides or where the check was issued or presented as payment.

The State of Washington may not be sued in Small Claims Court. Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a Small Claims suit unless the judge grants permission. You CAN obtain legal advice from an attorney, but they cannot represent you in Small Claims Court.

**It is the plaintiff's responsibility to accurately identify the defendant, (i.e., individual, husband and wife, sole proprietorship, partnership, corporation, etc.) and to provide a proper address and, if possible, a phone number.**

## How Much Does It Cost?

You must pay a \$24.00 filing fee (cash or check) at the time the suit is filed. You may have some additional service fees to have the Notice of Small Claims served on the defendant. If you win your case, you may be entitled to recover your costs of filing and service.

## How Do I Get Started?

First you will complete a Prefiling form that is provided by the clerk. The clerk will create the Small Claims Notice. You will be required to sign the Notice in the presence of the clerk. On the Notice a trial date will be provided.

**The clerk is not allowed to give legal advice or attempt to predict how the judge might rule in a given situation.**

## Serving The Notice

Service of the claim form can be accomplished by any of the following:

1. The Sheriff's Office;
2. A process server (see yellow pages of the phone book);
3. Any Washington State resident, over the age of 18 who is not connected with the case either as a witness or as a party and does not stand to gain financially from the suit;
4. By a **disinterested 3<sup>rd</sup> party** mailing the copies to the defendant by **registered certified restricted delivery** mail with return receipt requested. However, **if the defendant does not personally sign for the mail, service is not complete** and you will need to find another way to serve.

The defendant can be served personally anywhere in Spokane County. Service on a business depends on how they are licensed. A sole proprietorship must be served

on the owner. Partnerships require service on each partner. Corporations require service on a registered agent or a corporate officer. Information regarding how a business is licensed may be accessed through the secretary of State. They can be contacted at:

**Telephone:** (360) 725-0377 or you can access the website below.

[www.secstate.wa.gov/corps](http://www.secstate.wa.gov/corps)

**The Notice of Small Claim must be served on the defendant not less than ten (10) days before the first hearing.** The certificate of service (including the signed green card and receipt, if applicable) needs to be returned to the Small Claims Office at least a week prior to court. If you are unable to serve the defendant, you may return the defendant's copies to the office, complete an amended claim form and be issued a new court date.

## What If We Settle?

You are encouraged to try to settle your case before trial. **If you settle the dispute before the hearing, you must inform the court so the hearing can be canceled and your case closed.** If the other party agrees to pay at a later date, you may ask the court for a continuance providing both parties agree. If you have not received your money by the time of the continued hearing, proceed with the case to court. If you drop the suit, your filing fee and service costs are not returned.

## Preparing for the Trial

Collect all papers, photographs, receipts, estimates, canceled checks, or other documents that concern the case. Witnesses may appear for trial. They must have personal knowledge of the facts about which they are asked to testify. It may be helpful to write down ahead of time the facts of the case in the order they occurred.

This will help you to organize your thoughts and to make a clear presentation of your story to the judge.

It is also a good idea to sit through a Small Claims Court session before the date of your hearing. This will give you first hand information about the way small claims cases are heard.

### What Happens At The Trial?

When you arrive at the court, report to the courtroom in which your case has been assigned. When your case is called, come forward to the counsel table and the judge will swear in all the parties and witnesses.

Don't be nervous-remember that a trial in Small Claims Court is informal. The judge will ask the plaintiff to give his or her side first, then will ask the defendant for his or her explanation. Be brief and stick to the facts. The judge may interrupt you with questions, which you should answer straight out and to the best of your knowledge.

Be polite-do not interrupt-not just to the judge but also to your opponent. Whatever happens, keep your temper. Good manners and even tempers help the fair, efficient conduct of the trial, and make a good impression.

After the judge has heard both sides, he or she will normally announce the decision at that time. However, the judge may make the decision at a later date. In this event, you will be notified of the result by mail.

Exhibits presented in court will be held for the 30-day appeal period. If not appealed, exhibits are available for pick up between 31 and 60 days. After 60 days, exhibits may be destroyed.

### What If My Opponent Does Not Appear For Trial?

If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim proven in court, plus costs-provided the plaintiff can show proof of service.

If the plaintiff fails to appear, the claim may be dismissed; however, generally the court will permit the plaintiff to start over, if good cause for the non-appearance is shown.

### How Do I Collect My Money?

A money judgment in your favor does not necessarily mean that the money will be paid. **The Small Claims Court does not collect the judgment.**

When a judgment is obtained it will be valid for a period of 10 years from the date of judgment. It is your responsibility to make sure the court is aware at all times of your current address in the event we receive payment from the defendant.

If no appeal is taken and the judgment is not paid within 30 days, or the time set by the court in a payment plan, you may request an abstract of your judgment. This will take 3 days to complete. The fee will be \$20.00 and must be paid in advance.

**Remember, the clerks cannot give you legal advice. At this point you may need the assistance of an attorney or collection agency.**

The abstract may be transferred to the Civil Department where you may proceed with methods of collection as the law allows. In the alternative, you may take your abstract of the judgment and file it in Superior Court for a fee of \$20. There may be additional fees required. When this is done, it places a lien against all real estate in the name of the judgment debtor that is located in the county.

**When the judgment has been paid in full you must send written notice to the District Court that the judgment has been satisfied.**

### Can You Appeal A Case If You Lose?

The party who filed a claim or counter-claim cannot appeal unless the amount claimed exceeds 1,000.

No party may appeal a judgment where the amount claimed is less than \$250. If an appeal is taken to the Superior Court, the appeal will be based upon the record (testimony, exhibits, etc.) of the Small Claims trial. New evidence will not be allowed to be submitted to the judge hearing the trial. The appealing party is required to follow the procedures set out in RCW 12.36. **The following steps must be taken within 30 days:**

1. Prepare a written Notice of Appeal and file it with the District Court. The form is available at the Small Claims office.
2. Serve a copy of that notice on the other parties and file acknowledgment or affidavit of service in District Court.
3. Deposit at the District Court the \$220 Superior Court filing fee either in cash, money order, or cashier's check payable to Spokane County District Court.
4. Post a bond in a sum equal to **twice the amount of the judgment and costs, or twice the amount in controversy; whichever is greater**, (cash or surety bond made out to Superior Court) at the Small Claims office.

The District Court has 14 days after the appeal has been filed to prepare the record for transmittal to Superior Court. The appellant is notified in writing when it is complete. **A \$40 appeal preparation fee must be paid within 10 days of the notice that the record is ready for transmittal or the appeal may be dismissed.** The District Court clerk will advise all parties of the new Superior Court number and parties must then contact Superior Court for further instruction.

In compliance with the Americans with Disabilities Act (ADA), persons with disabilities that would require accommodation should call the Court (509) 477-3661, TDD available.