

An Introduction To

SMALL CLAIMS COURT

In the District Court of the State of Washington For the County of Spokane

Disclaimer

This brochure is intended to be a general statement of small claims procedure and not legal advice. For more detailed information, please consult applicable provisions of the Revised Code of Washington (RCW) Chapters 3.66, 4.16, 4.28, 12.40, and the Civil Rules for Courts of Limited Jurisdiction, Rule 5 (CRLJ 5). RCWs and court rules can be found at libraries and the following websites: www.leg.wa.gov (for RCWs) and www.courts.wa.gov (for court rules and sample forms). Court contact information can also be found at www.courts.wa.gov.

Who Can Sue and Be Sued?

Any ***“natural person”***; meaning a human being, may bring a small claims suit for *recovery of money only* for an amount up to **\$10,000**. Any ***business, partnership, corporation or DBA (doing business as)*** may bring a small claims suit for *recovery of money only* for an amount up to **\$5,000**.

In general, the claim must be filed in the district court of the county in which the defendant(s) reside. Exceptions and specific rules can be found at RCW 3.66.040. 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.

How Do I Get Started?

First, you need to prepare a Notice of Small Claim form that is provided by the district court clerk. You must sign the Notice in the presence of the clerk, unless otherwise instructed by the court. The clerk will enter a hearing date, trial date or response date on the Notice form. As the plaintiff (person bringing the suit), it is your responsibility to accurately identify the defendant, provide a proper address and if possible, a phone number, and to state the claim. The clerk may assist you with forms and general information about the process.

The clerk is not allowed to give legal advice.

How Long Do I Have to File My Case?

Time limits range from one (1) to ten (10) years. See Chapter 4.16 RCW to determine which time limit applies to your type of case.

How Much Does It Cost?

You must pay the court clerk a filing fee at the time the suit is filed. The filing fee will be \$35 per RCW 12.40.020. You may have some additional fees for the sheriff or process server to serve the Notice of Small Claim on the defendant, or you may pay to mail the Notice to the defendant registered or certified, return receipt requested. If you win your case, you are entitled to recover your costs of filing and service fees.

Serving the Notice

Once you have completed the Notice, it must be “served” or presented to the defendant. Per RCW 12.40.040. No other legal document or process is to be served with the Notice of claim.” Service of the Notice can be accomplished by having a ***disinterested party (other than the person who filed the claim)*** give a copy of the Notice to the defendant personally or by leaving it at the defendant’s usual residence with a person who is responsible enough to give it to the defendant, as long as service is done by:

1. The sheriff or a deputy of the county in which the court is located.
2. A process server (found online or in the yellow pages)
3. Any person over the age of 18 who is competent to be a witness and is not a party (including a process server); or

4. The Notice can be mailed to the defendant by registered or certified mail if a return receipt with the signature of the party being served is filed with the court. You cannot personally serve the Notice on the defendant.

Service on a Business

This will depend on how they are licensed. **Sole Proprietorship** - can only be served on the owner. **Partnerships** - require service on each partner. **Corporations** – **You must have the name of the** Registered Agent, Corporate President, Office Manager, Managing Agent or their Secretary/Cashier. Information regarding how a business is licensed may be accessed through the Secretary of State at (360) 725-0377 or www.secstate.wa.gov/corps

Service on the defendant must be complete at least ten (10) calendar days before the first hearing. A return of service form from the **disinterested party**, or mail return receipt with the defendant's signature, must be filed **before** the time of the first hearing. See RCW 12.40.040 and CRLJ 4 for more detailed information.

What If We Settle Before the Trial?

In most cases, neither party is one hundred percent right or wrong. 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 dismissed. If the other party agrees to pay at a later date, you may ask the court for a continuance. If the other party pays before the postponed date, ask the court to cancel the hearing. If you do not receive your money by the time of the continued hearing, proceed with the case in court. *If you drop the suit, the filing fee and service costs are not returned.*

Preparing for the Trial

Whether you are the plaintiff or the defendant, you can help yourself by being well prepared. To prepare for the trial, collect all papers, photographs, receipts, estimates, canceled checks or other documents that concern the case. It may be helpful to write down ahead of time the facts of the case in the order that they occurred. This will help you to organize your thoughts and 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 claim cases are heard.

How do I prepare my Exhibits?

Evidence presented in court will be held for the 30-day appeal period. If the case is not appealed, exhibits can be picked up between 31-60 days; after 60 days, they will be destroyed. Please follow these guidelines when preparing your exhibits for trial:

- Use standard 8.5 x 11 paper
- Provide copies for 1) Yourself 2) Opposing party. **The originals will be submitted to the Court for the Judge.**
- Exhibits must be labeled and should not exceed 20 pages

What Happens at the Trial?

When you arrive at the court, report to the courtroom in which your case has been assigned. Do not be late. 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, and 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 honestly and to the best of your knowledge.

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

After both sides have been heard by the judge, he or she will normally announce the decision right then and will enter a judgment with his or her decision.

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 is 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 for you.* Upon entry of the Small Claims Judgment, the case will be elevated to a Civil Case Number. Per RCW 12.40.105 the prevailing party will be provided with a certified copy of the judgment which may be filed with Superior Court for entry on the lien docket. Please contact Superior Court for additional information. Remember, the clerks cannot give you legal advice so you may need the assistance of an attorney or collection agency, whose fees may be paid by the debtor.

Can You Appeal a Case If You Lose?

A party who appeals a judgment is required to follow the procedures set out in chapter RCW 12.36.

Time to appeal: Notice of Appeal must be filed in District Court within 30 days of final disposition, and a copy of the Notice of Appeal must be served on all other parties or their attorney of record. RCW 12.36

Filing Fees: The filing fee is **\$270.00**. (*\$230 for the Superior Court Fee and \$40 for the cost of the preparation.*) This fee must be paid by cash, money order, cashier's check or attorney trust account check. **NO PERSONAL CHECKS WILL BE ACCEPTED.**

A bond must be posted in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater (RCW 12.36.020) so that the appellant will be able to pay any judgment, including costs, as may be rendered on appeal. No bond is required if the appellant is a county, city, town or school district. The bond must be cash, cashier's check, money order or surety bond.

When the appeal and bond are transferred to Superior Court, the appellant (person appealing the decision) may request that the Superior Court suspend enforcement of the judgment in the District Court until after the appeal is heard. Within 14 days of the filing the Notice of Appeal, the District Court clerk will transmit the court record to the Superior Court clerk. All further proceedings will be in the Superior Court.

Failure to complete the above process will result in a Notice to Superior Court notifying it that the appellate process is unperfected and incomplete, and that the court of limited jurisdiction is closing the file.

Once the judgment has been appealed to the superior court, then enforcement of any judgments entered in the case will be handled in superior court in the same manner as any other superior court judgment.

Prepared by:

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Office Hours: Monday – Friday 8:30 a.m. – 4:00 p.m. (Closed 12 – 1 pm)
New filings accepted until 4:00 p.m.

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