

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 individual, business, 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. 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 either \$14 or \$29 depending on whether the county in which you file the

lawsuit supports a dispute resolution center. 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. Service of the Notice can be accomplished by giving 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. Any person over the age of 18 who is competent to be a witness and is not a party (including a process server); or
2. The sheriff or a deputy of the county in which the court is located.

Or you can mail the Notice 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 the defendant must be complete at least ten (10) days before the first hearing. A return of service form from the process server or sheriff, or mail return receipt with the defendant's signature, must be filed at or 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.

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.

Some courts suggest or require that you mediate your claims in an attempt to settle. If you do enter into a mediation agreement, it may be a good idea to request a “Judgment” from the court. Sample Judgment forms for small claims court are available on the State Courts website (www.courts.wa.gov).

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.* If the debtor does not pay right away, the court may order a payment plan. If the losing party fails to pay, the judgment shall be increased by amounts intended to cover the cost of enforcing the judgment.

If no appeal is taken and the judgment is not paid within 30 days, or in the time set in a mediation agreement or payment plan, you may provide a written request and pay a \$20 fee to have a transcript of the judgment entered into the civil docket of the court. Then you may proceed with a method of collection such as garnishment of wages, bank accounts and other monies of the defendant, or an execution may be issued on cars, boats or other personal property of the debtor (also known as a “judgment debtor”). 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?

No appeal is permitted if the amount originally claimed was less than \$250. If a party who brought a claim or counterclaim wants to appeal a judgment, the amount originally claimed must have exceeded \$1,000. If a party loses a default judgment, an appeal may be taken under the district court rules for setting aside default judgments. RCW 12.40.120.

A party who appeals a judgment is required to follow the procedures set out in Chapter 12.36 RCW. The party who wants to appeal must take the following steps *within 30 days* of the entry of judgment:

1. Prepare a written Notice of Appeal and file it with the district court.
2. Serve a copy of that Notice on the other parties, and file the acknowledgment or affidavit of service in district court.
3. Pay the district court a \$20 transcript fee.
4. Deposit at the district court the \$230 superior court filing fee either in cash, money order or cashier’s check payable to the Clerk of the Superior Court, and pay a \$40 appeal preparation processing fee to the district court.
5. Post a cash or surety bond in a sum equal to twice the amount of the judgment and costs or twice the amount in controversy, whichever is greater, at the district court.

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 until after the appeal is heard.

Within 14 days of filing the Notice of Appeal, the district court clerk will transmit the court record to the superior court clerk who will assign a new number and notify the district court. The district court clerk will advise the appellant of that number, and the appellant must then contact the superior court for further instructions.

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.

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An Introduction To

SMALL CLAIMS COURT

In the District Court of the State of
Washington

For the County of _____

