

# Introduction to Small Claims

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

## Who may bring a Small Claims action?

Any individual, business, partnership or corporation (with a few exceptions) may bring a small claims action only to recover money; a “natural person,” meaning a human being, may file a claim up to \$10,000; the limit is \$5,000 in all other cases. **The claim must be filed in the district court of the county in which the defendant(s) resides;** exceptions and specific rules can be found at RCW 3.66.040. The State of Washington may not be sued in a small claims action. Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a small claims action unless the Judge grants permission.

## 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 to file?

There is a \$35 filing fee paid by the plaintiff and made payable to District Court at the time the suit is filed.

## GETTING STARTED

First, you need to prepare a Notice of Small Claim form that is provided by the District Court Clerk. The Notice requires: (1) your name and address; (2) a sworn statement briefly describing the claim, including the amount and when it occurred; and (3) the name and address of the defendant. *You must sign the Notice in the presence of the Clerk.* The Clerk will enter a hearing date, trial date or response date on the Notice form.

## How to serve the Notice:

The plaintiff is responsible for arranging service of the claim form on the defendant. The Clerk cannot make these arrangements. The Notice of Claim must be served on the defendant not less than ten (10) days before the trial date. A return of service form must be filed before the time of trial. **You cannot personally serve the claim.** Service of the claim form can be accomplished by any of the following:

- The Sheriff’s Office;
- A process server;
- Any person of legal age (18) who is not connected with the case either as a witness or as a party;
- By mailing the copies to the defendant by registered or certified mail with a return receipt requested. However, this type of service is valid only if the Defendant signs the return receipt and the receipt is then filed with the court with the return of service form.

## What if settled prior to court?

You are encouraged to try to settle your case before trial. If you settle the dispute before the trial, you must inform the court in writing via Motion of Dismissal or Continuance. If the defendant agrees to pay at a later date, you may file a motion requesting continuance. If the other party pays before the postponed date, file a Motion of Dismissal. 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, your filing fee and service costs are not refunded.)** If you do not appear on your trial date, your case will be dismissed.

## Requests for continuances:

All requests for continuances by either party must be done in writing via Motion for Continuance and submitted for Judge review.

# TRIAL

## 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 relevant documents. 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 organize your thoughts and make a clear presentation of your story to the Judge. You should bring any physical or documentary evidence you think might be helpful. **On your hearing date, bring 3 sets of any papers to be presented in court.**

## What happens at the trial?

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 to the best of your knowledge. **Be polite (don't 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 both sides have been heard by the Judge, he or she will normally announce the decision right then and will sign and hand the parties a judgment. However, the decision may be taken under advisement, depending on the circumstances, and you will be notified, in writing, of the 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 stated on the claim form, plus costs, provided the plaintiff can show proof of service, has filed a Declaration re: Service members Relief Act Form, and presents a prima facie case for damages. If the plaintiff fails to appear, the claim will be dismissed. However, the court may permit the plaintiff to start over if good cause for the nonappearance is shown.

# AFTER TRIAL

## How do I collect my money?

A money judgment is a judicial determination of how much money is owed. The Small Claims Court **does not** collect the judgment for you. If no appeal is taken and the judgment is not paid within thirty (30) days, you may request, in writing, that a transcript be issued. There is a \$20.00 fee for the transcript. This enables you to proceed with a method of collection such as garnishment of wages, bank account and other monies of the defendant; or an execution may be issued on cars, boats or other personal property of the judgment debtor.

Although an attorney may not represent either party in small claims court, the plaintiff may be entitled to reasonable attorney fees, if an attorney has been consulted and proof is shown, and any other costs incurred to enforce the judgment.

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

*A Satisfaction of Judgment must be filed with the court upon payment in full.*

## What happens if I lose?

Either party may appeal a judgment when the Judge has decided against them. However, no appeal is permitted if the amount originally claimed was less than \$250. Also, 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.

A party who appeals a judgment is required to follow the procedures set out in chapter 12.36 RCW. Within 30 days of the entry of judgment, you must:

1. File a written Notice of Appeal with the District Court.
2. Serve a copy of that Notice on the other parties.

3. Pay the District Court a \$20 transcript fee.
4. Deposit at the District Court the \$240 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 in the District Court 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. All further proceedings will be in the Superior Court.

## SATISFACTION OF JUDGMENT

**Consult with an Attorney.** The following information is intended to be helpful but cannot be complete in all circumstances or answer all legal questions. If you wish to arrange Satisfaction of Judgment without the assistance of your own attorney, the following information may be useful.

### **Option One:**

If you feel comfortable doing so, exchange your personal or certified check or money order in person with the plaintiff. At the same time have the plaintiff sign the Satisfaction of Judgment form. Then file the Satisfaction of Judgment with the Clerk of the District Court.

*Save your original cancelled check or proof of money order or certified check in the event it is later needed.*

### **Option Two:**

Your personal or certified check or money order to the plaintiff via the US mail. (Certified mail with a return receipt is suggested, but not required.) Enclose a Satisfaction of Judgment and a stamped, self-addressed envelope for the plaintiff to return the signed Satisfaction of Judgment form to you. Immediately upon receipt, file the Satisfaction of Judgment with the Clerk of the District Court. Save your original cancelled check or proof of money order or certified check in the event it is later needed.

### **Option Three:**

If you are unable or unwilling to meet with the plaintiff personally or if the plaintiff refuses or neglects to return the signed Satisfaction of Judgment form to you, you may ask the court to enter an Order of Satisfaction of Judgment. You will need the following:

- Have a copy of the judgment or know the date and amount of the judgment. Attach sufficient proof that you have paid the judgment in full. For example, original check returned from the defendant's bank and stamped by the bank as negotiated by the plaintiff; copy of certified check or money order with verification that it has been negotiated by the plaintiff; original receipt signed by the plaintiff; and/or original document signed by the plaintiff confirming "paid in full".
- Be able to arrange personal service of court paperwork on the plaintiff(s) (if personal service is not possible, you will need to consult with an attorney). Be able to appear in court within two to four weeks. File or bring proof of service with you to the court hearing (a form for proof of service is available from the Clerk).

**NO GUARANTEE:** The Judge will make a decision about whether or not to enter the Satisfaction of Judgment by court order. There is no guarantee. Only the Judge may decide if proof is sufficient. The Clerk cannot give legal advice. Please consult with your own attorney if you have other questions.

**WARNING:** Under some circumstances you may also need to get a certified copy of the Satisfaction of Judgment from the Clerk and record it with the Superior Court and/or the County Auditor.