

# If Someone Sues You in Small Claims Court

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## How do I know someone is suing me?

You will get a Notice of Small Claim form. You may get it by mail or hand delivery at your home or business. It will list you as the “defendant.” The person suing you is the “plaintiff.” The plaintiff must send you this Notice of Small Claim.

## I got a Notice of Small Claim. What do I do?

It will say a trial date. If you do not settle before trial and get Plaintiff to dismiss your case, YOU MUST SHOW UP FOR TRIAL.

## What happens if I do not settle or go to trial?

You will probably lose automatically. Plaintiff will try to collect from you. The plaintiff might

- Garnish your wages.
- Seize some of your property.
- Add collection costs, including attorney's fees, to the judgment.

## Should I contact the plaintiff?

Yes. See if you can settle – come to an agreement before you must go to court. Try asking Plaintiff for a compromise. Say you want to solve the problem without going to court.

Plaintiff might agree to use someone acting as a “mediator.” This neutral third party could help you settle the case. Local dispute mediation centers often have free mediators. Check this website to find a mediator near you: <https://resolutionwa.org/dispute-resolution-centers/>.

## I did not get a Notice of Small Claim form. I got a letter. What should I do?

You may have gotten a **demand letter**. The person who sent it is probably trying to come to an agreement with you out of court. A demand letter states:

- That person’s view of the problem.
- What they think you should do about it.

The demand letter will probably ask you to answer in writing.

## **We came to an agreement before our court date. Now what?**

Prepare a written agreement together. You both must sign it.

Plaintiff must tell the court clerk to dismiss the case against you. Check to make sure the clerk dismissed the case.

If you agree to pay later, Plaintiff will ask the court for a “continuance” (delay). Plaintiff must then mail or hand deliver to you a Notice of Continuance. The Notice will show a new trial date. If you pay before that date, Plaintiff should tell the clerk to dismiss the case. Check with the court clerk. Make sure this happens.

## **What if I get the Notice of Small Claim form fewer than ten days before the trial?**

Contact the district court clerk. The judge should delay the trial for at least ten days.

## **What if I think Plaintiff did something wrong?**

If you think Plaintiff owes you money, you can file a **Counterclaim**, stating that Plaintiff owes you some amount.

You must file the Counterclaim with the court clerk as soon as possible after getting Plaintiff’s Notice of Small Claim. **Do not wait until trial to tell the judge what Plaintiff has done wrong.** If you do, the judge may feel Plaintiff did not have enough notice of your Counterclaim. The judge may not listen to your arguments.

## **How do I file a Counterclaim?**

1. Go to the court listed at the top of the Notice of Small Claim as soon as possible after you get it.
2. Tell the court clerk you want to file a Counterclaim. The form to do this will probably be the same Notice of Small Claim Plaintiff served on you.
3. Explain in the Notice what Plaintiff has done wrong or why you do not owe them. If Plaintiff owes you money, explain.
4. **Make at least two copies of the Counterclaim.** Give the clerk the original. The clerk may give you extra copies of the form.
5. You must pay the court a filing fee as if you were starting the case yourself.
6. Mail or hand deliver Plaintiff a copy of the Counterclaim. See the next section.

## How do I mail or hand deliver a copy of the Counterclaim to Plaintiff?

Try to serve your Counterclaim on Plaintiff at least **ten days** before the court date. If you mail it, try to do so at least **13 days** before the court date so it arrives on time. **You may** have it hand delivered. **Do not deliver it yourself. You can** take it to the sheriff's office to have them deliver it OR do one of these:

- Hire a professional "process server." (Find one on the web.)
- Ask a friend who is 18 or older to deliver it.

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❖ The friend must not be personally involved in the case in any way.

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- The person who delivers the Counterclaim must have Plaintiff sign a Certificate of Service form. An adult who lives with Plaintiff (spouse, housemate, and so on) can also sign the Certificate of Service. You can use the blank form in this packet.
- Bring the signed Certificate of Service with you to the trial.

## How do I get ready for trial?

1. Gather evidence.
  - Get the important papers and documents you need to defend yourself. Bring anything showing why you do not owe what Plaintiff says. Examples: a contract, photo, diagram, drawing, lease, canceled check, repair bills, or written damage estimates.
  - Bring originals if possible. Bring extra copies in case the court wants anything you have.
  - **You may only submit evidence during trial, not after.** If you are not sure you will need something as evidence, bring it anyway.
2. **Contact witnesses who can support your case.** Ask them to appear at your trial. In Washington, you cannot order ("subpoena") a witness to small claims court. Your witnesses must have personal knowledge of the facts they will testify about. The witnesses must have seen or heard the damage, accident, or dispute **in person**. The more witnesses you have, the better.
3. **Get a preview.** Watch how small claims court works before your trial. Ask the court clerk when the court hears small claims trials. Sit in on one. Get an idea what yours will be like and how judges rule. If your court has a video about small claims court, ask the clerk for the video.

4. **Practice** what to say. Your presentation must be organized and short. Try making a list of important points to remember. Include questions to Plaintiff and your witnesses. Let your witnesses know beforehand what you will ask them.

### **Do I have to prove I am innocent?**

Plaintiff must prove you owe them money. You must defend yourself against Plaintiff's evidence and witnesses.

### **What if I cannot make it to my trial?**

If you do not show up in court, you may lose automatically ("by default").

If you did not appear and lost automatically, you might get a second chance. **You must have a very good reason** for not showing for trial. File a Motion to Vacate the Judgment as soon as possible after the default judgment. See [Motion to Vacate a Judgment/Order](http://www.washingtonlawhelp.org), available at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org). You might need a lawyer's help.

### **What should I bring to trial?**

- All your evidence, including written documents and physical evidence.
- Your witnesses.
- A signed Certificate of Service, if you filed a Counterclaim.

### **What do I do when I get to court for my trial?**

Check in with the court clerk when you arrive at the courthouse. The clerk will tell you which courtroom is yours. You might find the list of cases the court will hear that day posted outside the courtroom. You might hear the list of cases read aloud at the start of the session. If not, see the court clerk.

### **What happens at trial?**

The judge usually starts by describing the court's procedure. Usually at this time, all plaintiffs, defendants, and witnesses in all cases must swear to tell the truth. Then the court calls the first case. Wait for the judge to announce your case. Then go forward with your evidence and witnesses.

## What happens when they call my case?

Plaintiff speaks first. **Do not interrupt!** The judge may ask Plaintiff or their witness questions. The judge may let you ask Plaintiff and their witnesses' questions as well.

Then you get your turn to talk.

## What should I say when it is my turn?

- Describe what happened from your point of view.
- Show the judge any evidence you brought.
- Explain why you think you do not owe Plaintiff money or why you owe less than Plaintiff says.
- If you filed a Counterclaim (saying Plaintiff did something wrong or owes you), explain it now.
- If you have witnesses, tell the judge you want them to testify. When the judge says you may question your witnesses, ask them the questions you prepared about what they saw/heard happen. Ask them questions showing why you are right.

## Will the judge announce a decision?

After hearing both sides, the judge may announce a decision immediately. Sometimes the judge needs more time to study the case. If so, the judge will announce a decision in writing within a few weeks. If the judge decides in court at the close of trial, and both sides are in court, you or Plaintiff can ask the court for a payment plan.

## I lost. Now what?

You can pay Plaintiff at once or agree to a payment plan. When you have paid in full, Plaintiff must let the court know you have paid. Make sure Plaintiff had the case dismissed.

If you cannot pay and do not have many belongings or much money, you can file a "Claim of Exemption" to protect a certain minimum value of your things. You may be able to protect your house, furniture, a car, clothes, and some wages. See [Debtors' Rights in a Lawsuit](#) and [How to Claim Personal Property Exemptions](#), available at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

If you can pay but do not within 30 days of the decision (or according to a payment plan set by the court), Plaintiff can try to collect:

- You might have to go to court again and answer questions about the amount and location of your wages, bank account, personal property and real estate. [Supplemental Proceedings](#) has more info.
- Plaintiff might file to have your wages or bank account “garnished” - paid to Plaintiff instead of you.
- Plaintiff might file to have some of your property seized and sold to pay what you owe (“execution”).
- Plaintiff might put a lien on your real estate. The lien makes it harder to sell your real estate. The lien remains on the property even after you sell it.
- If Plaintiff’s claim arose from a car accident and you were uninsured, Plaintiff may have your driver’s license suspended.

## I lost. Can I appeal?

If you lost on Plaintiff’s claim against you, you can appeal **if that claim was for \$250 or more**. [RCW 12.40.120](#).

If you brought a Counterclaim against Plaintiff and lost, you can appeal **only if your Counterclaim was for \$1,000 or more**. [RCW 12.40.120](#).

If you decide to appeal, the superior court will hear your appeal. It will look at the record and evidence from the original small claims trial. [RCW 12.40.120](#). There will be no jury, lawyers, new pleadings, new testimony or new evidence.

To appeal, take these steps **within 30 days** of the judge’s decision in small claims court:

1. Get a Notice of Appeal form from the district court clerk. Fill it out. File the original in the district court.
2. Notify Plaintiff that you are appealing. Have a copy of the Notice of Appeal delivered (“served”) to Plaintiff. Then file a Certificate of Service OR a Certified mail or Registered Mail Return Receipt within 30 days. (To notify Plaintiff about the appeal, see “How do I mail or deliver a copy of the Counterclaim form to Plaintiff,” above.)
3. Pay the district court a small fee for a transcript of the small claims court judgment, usually about \$40. [RCW 3.62.060](#).
4. Post a bond at the district court. [RCW 12.36.020\(2\)](#). This bond will pay any judgment against you if you lose your appeal. [RCW 12.36.090](#)
5. Pay the superior court filing fee (usually \$200) in cash, money order, or cashier’s check payable to the clerk of the superior court. You may be able to waive this filing

fee (not have to pay it) if you are low-income. There may also be a processing fee. Within fourteen days of filing the Notice of Appeal, the district court clerk will file the transcript at the superior court. The superior court assigns a new number to your case. [RCW 12.36.050\(1\)](#). Once the district court clerk tells you the new case number, contact the superior court for more instructions.

## **I am appealing. Can I keep Plaintiff from trying to collect in the meantime?**

You can ask the court to “stay” or stop Plaintiff from collecting. [RCW 12.36.030](#). After filing the appeal in superior court, file a motion there asking that court to “stay” (stop) all further proceedings in the district court on the judgment. Talk to a lawyer about how do this.

If you ask the superior court to “stay” the collection, Plaintiff may show up in court and argue against the stay. The court might agree with Plaintiff and let Plaintiff collect from you. If you win your appeal, Plaintiff may then have to pay you back.

## **Can I get legal help?**

- If you are low-income, you can get legal advice from the Coordinated Legal Education and Referral (CLEAR) line at 1-888-201-1014. Someone there can also tell you if there are free legal services in your county. If you live in King County, call 211.
- Northwest Justice Project has other written info that might help. There are publications about landlord-tenant law, bankruptcy, divorce, domestic violence, wills, and more. Visit [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).
- You can get written info from the Washington State Bar Association (206-727-8213) or Washington State Attorney General’s Office (toll free 1-800-551-4636).
- If you think you need a lawyer and your local legal services office cannot help you, you may be able to find a lawyer who will charge a reduced fee for your first appointment. Check here for referral info near you: <https://www.wsba.org/for-the-public/find-legal-help>.

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