



Northwest Justice Project

9940EN - Small Claims Court in Washington State

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Section 1: Introduction

A. What is Small Claims Court?

Small claims court is a department of the district court. It should be a quick, cheaper way to settle disputes about money that you have been unable to work out on your own.

In small claims court, you may sue another person, a business, or -- in some cases -- the government for up to \$5,000. Lawyers usually may not take part. There are no juries, motions, or objections. The person who sues pays only a small fee for filing the lawsuit. You may get a trial much faster than in other courts. Most trials are short, about 20 minutes. You may have to wait while the court hears other cases.

◆ Small claims court should be easy for everyone to use.

Going to any court might make you nervous. This publication should help you learn about the law that applies to small claims court.

Section 2 explains how to start a lawsuit in small claims court. **Section 3** explains what to do if someone sues you in small claims court.

The person who sues (starts the lawsuit) is “the plaintiff.” The person you are suing is “the defendant.” **Read both sections, no matter which party you are.**

Small claims court procedures vary by county. There may be things in this publication that do not apply exactly to your local court. Filing fees also vary. Contact your local court clerk. Get a copy of its procedures.

◆ Some counties have a video that shows how to prepare and present a small claims court case. Ask the court clerk if this video is available.

B. What if I do not speak English?

If you do not speak English, or if you have a speech or hearing impediment, ask for an interpreter in court. **Some** small claims courts provide interpreters. If you are the plaintiff (the one who begins the lawsuit), ask for an interpreter when you file your claim. If you are the defendant (the one being sued), ask for an interpreter when you file your answer to the lawsuit. The court may provide one free. You may need to show you cannot afford one. When you go to court for your trial and the judge calls your case, say again that you need an interpreter.

◆ People who are not U.S. citizens may use the court.

Your interpreter helps you:

- present your side of the case

- understand what the other participants say

Details are important. If you think the interpreter is not translating what you want to say, tell the judge or your interpreter. Speak clearly and slowly. Tell the judge or your interpreter if there is anything you do not understand.

Section 2: How do I Sue in Small Claims Court?

A. What kinds of disputes may I take to small claims court?

- **Arguments involving money, \$5,000 or less**, that you have with a person, a business, or – in some cases – the government.

◆ Examples:

Your landlord refuses to return your \$1,000 security deposit.

Your neighbor will not pay \$2,600 he agreed to contribute toward the cost of a shared fence between your yards.

Your new \$350 stove will not work. The dealer who sold it to you refuses to refund your money.

- **Not disputes for more than \$5,000**

If you want to sue for more money, go to a different court or drop some of your claim to stay within the \$5,000 limit. You may not split the same claim into two different lawsuits.

- **Not disputes in which you sue to make someone do something** -- such as perform a service or return property.

◆ Examples:

If you are fired, you may not sue your ex-employer to get her to rehire you. (You may sue for unpaid wages.)

You may not sue for the return of a car. (You may sue for the money value of the car.)

You may not sue your landlord to make him repair your toilet. (You may sue for money: the difference between what your apartment is worth with a working toilet minus the amount the apartment is worth without a working toilet.)

B. I have expenses. May I add them to the amount I am suing for?

Yes, if they directly resulted from the original problem. Example: if the other person damaged your car, you may sue for the cost of repair **plus** the cost of renting a car during the repair. You may include the costs of filing the lawsuit and having the legal documents delivered to your opponent. Generally, you may **not** add in lost wages or travel expenses connected with preparing the lawsuit.

C. How much time do I have to file a case in small claims court?

You must usually file **within two or three years** after the problem occurred. If the problem involves a written agreement that was broken, you have **six years** to file.

File your claim as soon as possible. Witnesses' memories will still be fresh. You are more likely to have the evidence you need to make a strong case in court.

D. Can I sue the government in small claims court?

Only in certain situations:

State government - You may not sue the State of Washington at all.

Other government (examples, a city or county) - you usually have to file an "administrative claim" first. Contact the clerk of the governing body you want to sue. Ask how to file an administrative claim. If the governing body denies your administrative claim against it, take the written denial to small claims court. Tell the clerk they denied your administrative claim. You now want to file in small claims court.

E. I am suing a business. What if it tries to get the case moved out of small claims court?

A business or corporation may not have a lawyer represent it in small claims court. (In a regular courtroom, the business will have a lawyer to speak for it, but you will not.) The business may try to get the case moved to a regular courtroom

If it plans to do this, the business must notify you of a hearing date. Go to the hearing. Tell the judge you do not want the trial moved. Explain that moving the case is unfair because you do not have a lawyer.

F. Should I try to settle my case before suing?

Yes. This is a good idea.

- **Going to even small claims court can be stressful.** Settling out of court saves you time, money, and frustration.
- **You might lose** in court. Your opponent will have a chance to answer your claim. The judge might agree with your opponent. Your opponent might even bring a claim against you (a "Counterclaim"), asking you to pay money.
- Even if you win, **you might not be able to collect** your money. You might have to hire a

lawyer or collection agency to get the money for you. If your opponent has little or no money, you will probably not be able to collect.

G. How can I settle out of court?

- 1) Contact the other party yourself. Try to work out an agreement. Give compromise a try.
- 2) Get someone to act as a “mediator,” a neutral third party who helps you and your opponent settle. Local dispute resolution centers often have free mediators. The Washington State Attorney General’s Office or your local Better Business Bureau might be able to help mediate.
- 3) Write and send a “demand letter” if you cannot arrange to speak with your opponent. In the letter, tell your opponent what the problem is. Explain how you want it solved. Say that you plan to sue in small claims court if you cannot come to an agreement. A well-written demand letter can show your opponent you are serious. It also gives the other person or business a chance to reconsider. A sample demand letter is at the end of this publication.

Writing a demand letter:

- Type the letter.
- Be polite. Using insults will not help.
- Write a summary of the problem. Use enough detail to be clear. Include names and dates as needed.
- Stick to the facts. State only what relates directly to the problem.
- State clearly what you want the opposing party to do: pay for repairs, return a security deposit, and so on.
- State why the opposing party should do what you want. If you know what law applies, refer to it. If you do not have a legal reference, explain why what you propose is fair.
- Explain what you will do if the other party does not meet your demand. State what you want simply. Do not make threats. Example: “I believe that what I am asking for is fair. I hope that you will recognize this. If you do not do (fill in the blank), I am ready to file a claim against you in small claims court.”
- End the letter by asking your opponent to respond to you, preferably in writing. Ask your opponent to please answer as soon as possible so that you both can resolve the issue and put it behind you.
- Print and sign your name at the bottom.
- Keep a copy of your letter and any response you get from the other side.

◆ **If you fail to settle out of court, bring the demand letter with you.** It shows the judge that you tried to reach an agreement before suing.

- 4) If a car accident is involved, you may be able to get the other party to settle out of court if the other driver is uninsured and will not pay you for damages. If it is reasonable to think the other party was possibly at fault, you can start a procedure to have the state suspend the person's license to drive. The other party might agree to pay you in order to avoid that. To use this procedure:
- Fill out an accident report. Get a written estimate of damages.
 - Send these to the Washington Department of Licensing in Olympia within 180 days of the accident.
 - If the other party agrees to pay you, sign a form that reverses the license suspension.

◆ **Be careful about using this procedure.** It can lead to the license suspension of **any** uninsured driver who may be even partly liable for the accident. If you are uninsured, they might suspend your license, too. Talk to a lawyer before using this procedure.

H. What if I reach an agreement with the defendant before the hearing?

Follow these steps:

- Prepare a written agreement with your opponent.
- Deliver a copy of this agreement to the court clerk. Tell the clerk to dismiss the case.
- If your opponent agrees to pay later, ask the court in writing for a "continuance" (a delay). Deliver a Notice of Continuance to the other party by certified mail or in person. See the section below called "How do I notify my opponent?"
- If your opponent pays before the new hearing date shown on the Notice of Continuance, go to the courthouse. Tell the clerk to dismiss the case. If you dismiss, the court will not refund your filing fee and service costs. You might add these costs to the settlement agreement.

I. What if the person I want to sue is out of state?

If the person you are suing is an owner or landlord who lives in a different state, you can sue in small claims court. [RCW 3.66.100](#).

J. How do I sue?

1. Find the right court.

Go to the district court in the district where your opponent lives or where the business you are suing does business. The location of district court is in the blue pages in the front of your phone book or online: http://www.courts.wa.gov/court_dir. The small claims court is a department of the district court. The district court clerk can tell you whether a particular address is within the court's boundaries.

If you cannot find your opponent's home address after a reasonable effort to do so, you may sue in the district where your opponent works, using that address.¹

If you are suing over a traffic accident or a bad check, you may sue in the county where the accident or bad check incident took place.²

2. Get a Notice of Small Claim form.

Ask the court clerk for a Notice of Small Claim form. You may be able to ask the court clerk to mail you a blank Notice of Small Claim form. If so, you fill out the form, have it notarized, and mail it back to the court. Otherwise, you will need to sign the completed form in the presence of the court clerk and file the form in person. Ask your local court clerk what their procedure is. The court clerk may explain the appropriate procedure and supply the basic forms.

The clerk cannot:

- fill the forms out for you
- give legal advice
- try to predict how the judge might rule

◆ There are general small claims court forms on the [Washington State Courts website](http://www.courts.wa.gov) at <http://www.courts.wa.gov/forms/index.cfm?fa=forms.contribute&formID=33>. **Do not use these forms until you check with your local small claims court.** Some counties require special forms.

3. Fill out the Notice of Small Claim form.

On the Notice of Small Claim form is a space to list the "plaintiff" and the "defendant" in the case. Put your name in the space for "plaintiff." (The plaintiff is the one who files the lawsuit.) Put the name of the person or business you are suing in the space for "defendant." (The defendant is the one you are suing.)

¹ [RCW 3.66.040](#)

² [RCW 3.66.040\(4\)](#), [RCW 4.12.025\(2\)](#)

List your address and the defendant's address in the spaces below your names. You must have a street address for the defendant. A P.O Box number is not enough. Include a phone number if available.

You may sue more than one person, listing the name and address of each person. If you are suing a married person, name both the husband and wife in the claim. If you are suing as the result of a traffic accident, name both the driver and the registered owner of the vehicle. If your lawsuit is about a business dispute, name the business, the business owner, and any business employee involved.

◆ **If you name the wrong person(s) or business in your claim**, the judge will dismiss the case against those defendants. You may later re-file against the right defendants, as long as you file in time.

If you are suing a corporation, you must have its correct name. List the office address of the corporation or the address of its "registered agent."³ A "registered agent" is the person or company you must notify that you are suing the corporation. For more information, see "How do I notify the defendant?" below.

All corporations doing business in Washington State must register the names and addresses of their agents with the Washington Secretary of State.⁴ To get the name and address of a corporation and its registered agent, call the Washington Secretary of State at (360)753-7115. You can also visit the website (<http://www.secstate.wa.gov/> under Corporations). A corporation doing business in Washington State that fails to register an agent may be served through the Secretary of State.⁵

The Notice of Small Claim Form has a space to write, briefly, what your claim is about and how much money you are suing for.

◆ Wait to sign the form until you are ready to give it to the court clerk. In some counties, the clerk has to watch you sign it.

After you have filled out the Notice of Small Claim form, take the following steps:

1. Get at least two copies of the completed form. Make them yourself or get them from the clerk.
2. Give the original form to the court clerk.
3. Pay the clerk a small fee to file the claim (\$14 – \$29).
4. Sign the form in the presence of the clerk (if your county requires it).

³ [RCW 4.28.080](#)

⁴ [RCW 23B.05.010](#)

⁵ [RCW 23B.05.040\(2\)](#)

5. Either mail a copy of the Notice of Small Claim form or have it delivered in person to your opponent. See “How do I notify the defendant?” below.

K. How do I notify the defendant?

You must let the defendant know that you have started a lawsuit by having the Notice of Small Claim delivered to him/her. (We call this “service of the claim.”) You may mail the form to the defendant or have the form delivered by a person.

The Notice of Small Claim form must be delivered to the defendant or an adult who lives permanently with him/her. If you are suing a business, a corporation, a government agency, or an absentee landlord, you must deliver the form to a “registered agent” or a “managing agent,” such as a secretary or rental manager.⁶

1. Have the Notice of Small Claim form delivered in person.

◆ You may not deliver the form yourself.

- Have the sheriff’s office deliver the form, or hire a professional “process server.” Look in the yellow pages for a professional process server. The fee is usually \$15 to \$30.
- You can have a friend over 18 years old deliver the form – as long as the friend is not a witness and is not personally involved in the case in any way.
- The person who delivers the form **must** have the defendant sign a Certificate of Service when making the delivery. If the defendant is not at home, an adult who lives with him/her (example: spouse, roommate) may also sign the Certificate of Service form. If you are suing a business, a corporation, a government agency, or absentee landlord, have a “registered agent” or a “managing agent” (such as a rental manager) sign the Certificate of Service form. Make a copy of the blank Certificate of Service form in this packet.
- You should also have the person who delivers the form file an affidavit with the court saying that the Notice of Small Claim form has been served. They must sign the affidavit before a notary public.
- After the Notice of Small Claim form has been delivered and the Certificate of Service signed (or the affidavit signed), make sure that the Certificate of Service (or affidavit) is filed with the clerk at the courthouse.
- You should have the Notice of Small Claim form delivered by the sheriff’s office or a professional process server to minimize the chances of making a mistake. If you make a mistake, it may delay your case. The judge might even dismiss your case.

OR

⁶ See [RCW 4.28.080](#), *serving an agent* and [RCW 23B.05.040\(2\)](#), *registering an agent*

2. Mail the Notice of Small Claim form to your opponent.

- Mail the form at the post office counter. Ask for Registered Mail or Certified Mail. Ask for Return Receipt Requested. That means the defendant must sign a receipt when s/he gets the form in the mail. S/he will mail the receipt back to you.
- When you get the Return Receipt with the defendant's signature (or the signature of someone who lives with the defendant, or the signature of a "registered agent" or a "managing agent"), make a copy of it. Take the copy to the court clerk. Keep the original receipt. Bring it to your trial.

L. How much time do I have to notify the defendant?

The Notice of Small Claim form must reach the defendant at least **ten days** before the court date. If you are mailing the Notice of Small Claim form to the defendant, mail it at least **13 days** before the court date. If you cannot meet this deadline, go back to the clerk. Get another Notice of Small Claim form. Have it delivered within the time limits.

M. When do I get my trial date?

You should get it when you deliver the Notice of Small Claim form to the court clerk.

N. How do I get ready for trial?

1. Gather evidence.

- Get the important papers and documents you need to prove your case. Examples: a contract, a sales receipt, a photograph (of the broken appliance, house damage, car accident damage, and so on), a diagram, a drawing, a renter's agreement or lease, a canceled check, repair bills or written damage estimates. Once you are in court, someone personally familiar with the evidence must identify it and explain what it is.

Bring any evidence you may need to defend yourself in case the defendant filed a "Counterclaim" against you. (The Counterclaim might state that the defendant does not owe you because you are at fault. It might state that you owe the defendant money.)

- If you had property taken or damaged, write down how much it would cost to replace it from different stores.
- Bring originals, if possible. Bring an extra copy in case the court wants to keep any of your documents. If your case involves a faulty product, bring it to court if possible.
- **You may only submit evidence during the trial, not after.** If you are not sure whether 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 come to small claims court.

Your witnesses must have personal knowledge of the facts they are testifying about. The witnesses must have seen or heard the damage, accident, or dispute **in person**. Good witness statements can help more than written evidence.

3. Get a preview.

If you want to see how small claims court works, ask the court clerk when the court holds small claims trials. Watch a trial yourself to see what happens in other lawsuits and how judges rule. If your court has a video about small claims court, ask the clerk for the video.

4. Practice.

Practice presenting your case. Make sure your presentation is organized and short. Try to write a list of important points you want to remember. Include questions to the defendant and to your witnesses. Let your witnesses know in advance what questions you will ask them.

O. What if I cannot make it to my trial date?

Give the judge a written request for a “continuance” (a delay). At least contact the court clerk. If you miss your trial without first contacting the court, you will probably lose your case automatically. The judge may dismiss the case, or you may lose by default.

P. What should I bring to trial?

- All your evidence, including written documents and physical evidence.
- The original Certificate of Service or the post office Return Receipt. These papers must have the signature of your opponent (or a spouse, roommate, “registered agent,” or “managing agent”).
- Your witnesses.

Q. What do I do when I get to court?

Check in with the court clerk when you arrive at the courthouse for your trial. 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 you do not see the list of cases or hear it read, see the court clerk.

R. What happens at trial?

The judge will call you the “plaintiff” (the person who brought the case). The judge will call your opponent the “defendant” (because s/he is “defending” him-/herself against you).

The judge usually begins by describing the court’s procedure. Usually at this time all plaintiffs, defendants and witnesses 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.

S. What do I say at trial?

You must prove the defendant owes you money. The defendant does not have to prove that s/he does not owe you money.

If you do not have enough proof – if the judge only has your word against the defendant’s word on which to base a decision – you may lose. Do not take your case for granted.

1. Explain the details of your case.

- Describe what happened.
- Show the judge all the evidence you brought with you.
- Explain why you think the defendant owes the amount you are suing for.
- Explain that you delivered the Notice of Small Claim to the defendant on time. Show the judge the Certificate of Service to prove it.
- If you have witnesses, tell the judge you would like to have your witnesses testify. The judge will tell you that you may question your witnesses. Ask them the questions you prepared about what they saw or heard happen and about why you are right in this case.

2. Be ready for questions.

The judge, and then the defendant, may ask you and your witnesses’ questions. Answer the questions carefully. Do not insult the other side. Try not to become too emotional.

T. Does the defendant get to talk?

Yes. After the judge finishes questioning you and your witnesses, the judge will ask the defendant to present the other side of the story. **Do not interrupt.**

The defendant may have filed a “**Counterclaim.**” A “Counterclaim” is a claim the defendant filed against you after getting your Notice of Small Claim. A Counterclaim might say the defendant does not owe you money, because you have done something wrong. It might also say you owe the defendant.

If the defendant has filed a Counterclaim, the judge will also listen to the defendant’s evidence about that claim. You will have a chance to defend yourself against the defendant’s Counterclaim. Wait until the judge tells you may speak again before you ask questions.

◆ If the defendant has a Counterclaim against you, but you never got a notice about it before the trial, tell the judge.

U. Will the judge announce whether I won?

After hearing both sides, the judge may either:

- announce a decision immediately or
- need more time to study the case

If the judge needs more time, s/he will give a written decision within a few weeks. If the judge decides in court that day, and both sides are there, you or the defendant should ask the court to order a payment plan.

V. What happens if I miss the trial?

If you do not have a very good reason for missing your trial and failing to notify the court, you will lose automatically (“by default”). The judge will dismiss the case. You may not have the case rescheduled.

If you have a very good reason for missing the trial, you can file a Motion to Vacate Judgment. File the Motion to Vacate Judgment as soon as possible after the default judgment. File it with the district court clerk. See our packet called [Motion to Vacate Judgment/ Order](#), available at www.washingtonlawhelp.org. Try to ask a lawyer for help.

If you miss the trial and the defendant filed and served a “Counterclaim” (a claim saying you did something wrong or owe money) against you, you might lose the Counterclaim automatically, too. If the defendant’s Counterclaim said you owed the defendant, the judge might decide you must pay the defendant.

W. What happens if the defendant misses the trial?

S/he may lose automatically (“by default”). You must prove that the defendant was served with the Notice of Small Claim. See “How do I notify the defendant?” above. The judge may then decide that the defendant must pay what you claimed and proved s/he owes you.

X. I won. How do I collect?

The court does not collect for you. You might work out a payment plan with the defendant. A good way for you to collect the money is for the defendant to write you a check. The defendant can also pay cash. Give the defendant a written receipt with your signature if you get cash payment.

Y. What do I do when I get the money from the defendant?

When you have gotten all the court has told the defendant to pay you, notify the district court clerk in writing that the defendant has paid you. You may be able to do this by signing in the appropriate place on the Small Claims Judgment form. Then file the signed form with the court.

Other counties have a special form available from the small claims department. It is usually called a Satisfaction of Judgment form.

Z. I won. The defendant will not pay. What can I do?

If the person you sued is able to but will not pay, you may still be able to collect. Take the steps below if there is no appeal and the defendant does not pay the judgment **within 30 days** of the decision -- or according to the payment plan set by the court:

1. Ask the court to “certify” the judgment. Get the form to do this from the district court clerk. (There is a small fee.)
2. File papers for a small fee to have the defendant’s wages or bank account “garnished.” “Garnishing” means that money is taken from the defendant’s bank account or wages and paid to you. You can also have some of his/her property seized and sold to pay the debt (called “execution”).

You may need to get help from a lawyer. Add any lawyer’s fees and the cost of certifying the judgment to the amount the defendant is supposed to pay you.⁷

3. You can put a “lien” on the defendant’s real estate:
 - Buy a transcript of the certified judgment from the district court clerk for a small fee (about \$5).
 - File the transcript in superior court for an extra small fee (about \$15). This filing puts a “lien” on any of the defendant’s real estate in the county of that superior court.
 - File the transcript of the certified judgment in as many counties as you think the defendant owns real estate. The lien makes a sale of the real estate harder. The lien stays on the property even after it is sold. **This does not guarantee you will be paid.**

A certified judgment is good for ten years. You may be able to collect later. The longer you wait, the harder it is to collect. After ten years have passed, you may have the judgment renewed for one more ten-year period.

4. If your claim arose from a car accident and the defendant was uninsured, you can put pressure on him/her to pay. If the defendant has not paid you within 30 days of the judge’s decision, you may have the defendant’s license suspended. Ask the court clerk for a certified copy of the judgment. Then contact the Department of Licensing in Olympia.
5. You can get a collection agency’s help collecting your money. **The agency will usually keep half of anything it collects for you.** Debt collection lawyers also often charge large fees for collecting your money.

⁷ [RCW 6.17.110\(2\)](#)

If you do not know what property or wages the defendant has, you may make him/her come to court again. You can ask questions about the amount and location of his/her wages. You can ask about bank accounts, personal property and real estate as well. You will probably need a lawyer's help.

AA. What if the defendant cannot pay?

You may not be able to collect at all. Some belongings and wages may not be taken to enforce a judgment. If the losing side does not have many belongings or much money, s/he may file a "Claim of Exemption" to protect a certain small value of possessions. That amount might include a house, furniture, car, clothes and some wages. Our publication called [Debtors' Rights in a Lawsuit](#), at www.washingtonlawhelp.org, has more information.

BB. I lost. May I appeal?

If you brought the claim but lost at trial: yes, if your claim was for \$1,000 or more.

If the defendant brought a "Counterclaim" against you (saying that you did something wrong or owed money): yes, if it was for \$250 or more.

If you appeal, the superior court (not small claims court) will consider your appeal. The superior court will only look at the written record and evidence from your original small claims court trial.⁸ That means, unless the superior court says so, you may not bring new evidence or speak to support your claim again. There will be no jury, no lawyers, or new claims, unless the superior court allows them.

If you want to appeal, take these steps within 30 days of the judge's decision about your case:⁹

1. Get a Notice of Appeal form from the district court clerk. Fill it out. Make at least two copies. File the original Notice of Appeal in the district court.
2. Notify the defendant that you are appealing. Have a copy of the Notice of Appeal delivered (or "served") to the defendant. Follow the same steps you took to notify the defendant of your original claim to notify the defendant of the appeal. See "How do I notify the defendant?" above.
3. If someone delivered a copy of the Notice of Appeal to the defendant, file the Certificate of Service (or affidavit) in the district court **within 30 days**. If you mailed the Notice of Appeal, file the Return Receipt for the Certified Mail or Registered Mail **within 30 days**.
4. Get a transcript (official written record) of the small claims court judgment. You must pay a small fee for the transcript (usually about \$20).¹⁰
5. Post a bond at the district court. The bond is to be executed with two or more personal sureties (someone who ensures that the money will be paid), or a surety company (if

⁸ [RCW 12.36.055](#)

⁹ [RCW 12.36.020](#)

¹⁰ [RCW 3.62.060](#)

the court approves), for twice the amount of the judgment plus costs or twice the amount of your claim (whichever is more).¹¹ This bond pays any judgment against you if you lose your appeal.¹²

6. Pay a filing fee for the appeal to the superior court, usually \$200. You may pay cash, by money order, or by cashier's check – payable to the Clerk of the Superior Court. If you are low-income, ask the clerk if you may “waive the filing fee,” that is, not have to pay the fee because you are low-income. You might also have to pay a fee for preparing the appeal (an “appeal preparation processing fee,” about \$40).
7. No more than fourteen days after you file the Notice of Appeal, the district court clerk will file the transcript (the official written record) of your small claims case with the superior court.¹³ The superior court will give your case a new number. The district court clerk will let you know the new number. After you hear from the district court clerk, contact the superior court for further instructions.

CC. The defendant won a Counterclaim against me, saying I owe money. If I appeal, do I have to pay while the court is considering my appeal?

If you do not want the small claims judgment enforced while you appeal it, ask the court to stop the collection.¹⁴ After you have taken all the steps to file the appeal in superior court, make a “motion” asking that the court “stay” – or stop – all further action in the district court relating to your case. Ask a lawyer how to do this.

DD. I won. The defendant is appealing. He is trying to stop me from collecting the debt while the appeal is in progress. What do I do?

If you are trying to collect from the defendant, s/he might appeal and ask the court not to let you collect while the appeal is in progress. The defendant must make a motion to stay the collection. You can appear in court and say you do not want the collection stopped during the appeal. If you finally lose the appeal, you might have to pay back what you have already collected from the defendant.

Section 3: If Someone Sues You in Small Claims Court

A. How do I know if someone is suing me?

If someone sues you in small claims court, you will get a Notice of Small Claim form. You may get this form by mail or in person at your home or business. You will be listed as the

¹¹ [RCW 12.36.020\(2\)](#)

¹² [RCW 12.36.090](#)

¹³ [RCW 12.36.050\(1\)](#)

¹⁴ [RCW 12.36.030](#)

“defendant.” You will find the name of the person suing you as the “plaintiff.” The person who is suing you must send you this Notice of Small Claim form.

B. I got a Notice of Small Claim form. What do I do?

The Notice of Small Claim will say a trial date. If you do not settle before trial and get the person suing you to dismiss your case, YOU MUST SHOW UP FOR TRIAL. If you do not, you will probably lose automatically, and the person/company suing you (called the plaintiff) will try to collect from you. They might garnish your wages. They might seize some of your property. Collection costs incurred during collection, including attorney's fees, could then be added to the judgment.

C. Should I contact the plaintiff?

Yes. See if you can settle – come to an agreement outside of court. Try asking the plaintiff for a compromise. Tell them you would like to solve the problem without going to court.

The plaintiff might agree to use someone to act as a “mediator,” a neutral third party who helps you settle out of court. Local dispute mediation centers often have free mediators. The Washington State Attorney General’s Office or your local Better business Bureau might be able to mediate.

If you get a **demand letter** from the person who is suing you, the plaintiff is probably trying to come to an agreement with you out of court. A demand letter states:

- the plaintiff’s view of the problem and
- what s/he thinks you should do about it.

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

D. What if the plaintiff and I come to an agreement before going to court?

Prepare a written agreement together. Both of you must sign it. The plaintiff must then tell the court clerk to dismiss the case against you. Check yourself to make sure the clerk dismissed the case.

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

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

If you get the Notice of Small Claim form fewer than ten days before the trial date, contact the district court clerk. The judge should delay the trial for at least ten days.

F. What if I think the plaintiff is actually the one who did something wrong?

If you think the plaintiff did something wrong to you or failed to follow through on some part of an agreement, you can file a “Counterclaim” against that person. If you think the plaintiff actually owes you money, file a Counterclaim, stating that the plaintiff owes you some amount.

File the Counterclaim with the court clerk as soon as possible after you get the plaintiff’s Notice of Small Claim form. **Do not wait until the trial to tell the judge what you believe the plaintiff has done wrong.** If you wait until trial to tell the judge, the judge may feel that the plaintiff did not have enough notice of your Counterclaim – did not know about it soon enough before the trial. The judge may not listen to your arguments.

G. How do I file a Counterclaim?

1. Go to the court listed at the top of the Notice of Small Claim form as soon as possible after you get the Notice.
2. Tell the court clerk that you wish to file a Counterclaim. The form to do this will probably be the same Notice of Small Claim form the plaintiff used to begin the case.
3. Explain on the form what you think the plaintiff has done wrong or why you do not think you owe him/her any money. If you think the person owes you money, explain.
4. **Make at least two copies of the Counterclaim form.** Give the original to the clerk at the court where the plaintiff filed the case against you. The clerk may also give you extra copies of the form.
5. **You will have to pay a filing fee to the court as if you were starting the case yourself.**
6. **Make** sure the plaintiff gets a copy of the Counterclaim form. Either mail a copy of the Counterclaim form to the plaintiff, or have the form delivered to him/her in person. See the next section, called “How do I mail or deliver a copy of the Counterclaim form to the plaintiff?”

H. How do I mail or deliver a copy of the Counterclaim to the plaintiff?

Try to serve your Counterclaim on the plaintiff at least **ten days** before the court date. If you mail the Counterclaim form to the plaintiff, try to do so at least **13 days** before the court date to make sure it arrives on time. **You may** have the Counterclaim delivered in person. **You may not deliver the Counterclaim yourself. You may:**

Take it to the sheriff’s office and have one of the staff there deliver it OR

- hire a professional “process server” (they are in the yellow pages) OR

- ask a friend who is over 18 years of age to deliver it.

◆ If you have a friend deliver it, the friend must not be personally involved in the case in any way.

- The person who delivers the Counterclaim must have the plaintiff sign a Certificate of Service form when making the delivery. An adult who lives with the plaintiff (spouse, housemate, and so on) may also sign the Certificate of Service form. You can make a copy of the blank Certificate of Service form in this packet for this purpose.
- Bring the signed Certificate of Service form with you to the court.

I. How do I get ready for trial?

1. **Gather evidence.**

- Get the important papers and documents you need to defend yourself in the case. Bring anything that shows why you do not owe what the plaintiff says you owe. Examples: a contract, a photograph, a diagram, a drawing, a renter's agreement or lease, a canceled check, repair bills, or written damage estimates.
- Bring originals if possible. Bring extra copies in case the court wants to keep anything you have.
- **You may only submit evidence during the trial, not after.** If you are not sure whether 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 come 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 personal witnesses you have, the better.

3. **Get a preview.** If you want to see how small claims court works before your trial, ask the court clerk when the court hears small claims trials. Sit in on a trial. 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 you want to say. Your presentation must be organized and short. Try to write a list of important points you want to remember. Include questions to the plaintiff and to your witnesses. Let your witnesses know in advance what questions you are going to ask them.

J. Do I have to prove I am innocent?

In the American court system, a person is innocent until proven guilty. The person suing you must prove that you owe him/her money. You must defend yourself against the plaintiff's evidence and witnesses.

K. What if I cannot make it to court on my trial date?

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

If you failed to appear and lost automatically, you might possibly get a second chance. **You must have a very good reason** for not showing up on the trial date. File a Motion to Vacate the Judgment as soon as possible after the default judgment. File this motion with the court clerk. See our packet called [Motion to Vacate a Judgment/Order](#), available at www.washingtonlawhelp.org.

You might need a lawyer's help with this motion.

L. What should I bring to trial?

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

M. What do I do when I get to court for my trial?

Check in with the court clerk when you arrive at the courthouse for your trial. 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 you do not see the list of cases or hear it read aloud, see the court clerk.

N. What happens at trial?

The judge will refer to the person who sued you as the "plaintiff." The judge will refer to you as the "defendant" (you are "defending" yourself against your opponent).

The judge usually begins by describing the court's procedure. Usually at this time, all plaintiffs, defendants and witnesses 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.

O. What happens when my case is called?

The plaintiff will have the chance to speak first. **Do not interrupt!** The judge may then ask the plaintiff or his/her witness questions. The judge may then give you the chance to ask the plaintiff and his/her witnesses' questions as well.

Then you will have your turn to talk.

P. What should I say when it is my turn to talk?

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

Q. 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 the day of the trial, and if both sides are in court, you or the plaintiff may ask the court to prepare a payment plan.

R. I lost. Now what?

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

If you are unable to pay and do not have many possessions or much money, you may file a “Claim of Exemption” to protect a certain minimum value of your belongings. You may be able to protect your house, furniture, a car, clothes and some wages. Our publications, [Debtors’ Rights in a Lawsuit](#) and [How to Claim Personal Property Exemptions](#), available at www.washingtonlawhelp.org, has more information.

If you are able to pay but do not do so within 30 days of the decision (or according to a payment plan set by the court), the 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.
- The plaintiff might file papers to have your wages or bank account “garnished” - paid to the plaintiff instead of you.
- The plaintiff might file papers to have some of your property seized and sold to pay what you owe (called “execution”).
- The plaintiff might put a “lien” on your real estate. The lien makes a sale of your real estate harder. The lien remains on the property even after you sell it.

- If the plaintiff's claim arose from a car accident and you were uninsured, the plaintiff may have your driver's license suspended.

S. I lost. May I appeal?

If you lost on the plaintiff's claim against you, you may appeal **if that claim was for \$250 or more.**

If you brought a Counterclaim against the plaintiff and lost, you may appeal **only if your Counterclaim was for \$1,000 or more.**¹⁵

If you decide to appeal, the superior court will consider your appeal. The superior court will look at the record and evidence from the original trial in small claims court.¹⁶ There will be no jury, lawyers, new pleadings, new testimony or new evidence.

If you want to appeal, take these steps **within 30 days** of the judge's decision in small claims court:¹⁷

1. Get a Notice of Appeal form from the district court clerk. Fill it out. File the original Notice of Appeal in the district court.
2. Notify the plaintiff that you are appealing. Have a copy of the Notice of Appeal delivered (or "served") to the plaintiff. Then file a Certificate of Service (or affidavit) OR a Certified mail or Registered Mail Return Receipt within 30 days. (To notify the plaintiff about the appeal, follow the same steps you took, if you filed a Counterclaim. See above: **How do I mail or deliver a copy of the Counterclaim form to the plaintiff?**)
3. Pay the district court a small fee for a transcript of the small claims court judgment (usually about \$20).¹⁸
4. Post a bond at the district court. The bond must be executed with two or more personal sureties (someone who ensures payment of the money), or a surety company (if the court approves), for either twice the amount of the judgment plus costs or twice the amount of your claim (whichever is more).¹⁹ This bond will pay any judgment against you if you lose your appeal.²⁰
5. Pay the superior court filing fee in cash, money order, or cashier's check, payable to the clerk of the superior court (usually \$200). You may be able to waive this filing fee (ask that you not have to pay it) if you are low-income. There may also be an additional appeal preparation processing fee. Within 14 days of filing the Notice of Appeal, the district court clerk will file the transcript at the superior court, which will

¹⁵ [RCW 12.40.120](#)

¹⁶ [RCW 12.36.055](#)

¹⁷ [RCW 12.36.020](#)

¹⁸ [RCW 3.62.060](#)

¹⁹ [RCW 12.36.020\(2\)](#)

²⁰ [RCW 12.36.090](#)

assign a new number to your case.²¹ Once the district court clerk tells you the new case number, contact the superior court for further instructions.

T. I am appealing. May I keep the plaintiff from trying to collect while I appeal?

If you do not want the small claims judgment enforced during your appeal, ask the court to “stay” or stop the collection.²² After you have filed the appeal in superior court, make a motion in superior court asking that court to “stay” all further proceedings in the district court on the judgment. A lawyer can advise you how to do this.

If you ask the superior court to “stay” the collection, the plaintiff may show up in court and argue against the stay. The court might agree with the plaintiff and go ahead with the collection. If you win your appeal, the plaintiff may have to pay you back.

U. Can I get more 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 information that might help. There are publications about landlord-tenant law, bankruptcy, divorce, domestic violence, wills, and more. Visit www.washingtonlawhelp.org.
- You can get written information from the Washington State Bar Association (206-727-8213) or the Washington State Attorney General’s Office (toll free 1-800-551-4636).
- If you think that 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 in the yellow pages of your telephone directory under “Attorneys.” There may also be a listing for a referral program operated by your local bar association.

²¹ [RCW 12.36.050\(1\)](#)

²² [RCW 12.36.030](#)

Sample Demand Letter

Jill Landlord
69 Main St.
Tacoma, WA 98425

Dear Ms. Landlord:

It is now been over two weeks since I moved out of your rental property located at 38 Sycamore, Elbe, WA 99302. I gave you written notice on May 10, 2012 that I would be moving out on May 31, 2012. I was out of the apartment by the end of the day, May 31.

When I moved into your apartment I paid you a damage deposit of \$500. According to the Residential Landlord Tenant Act, you must by law return my damage deposit in full or provide a written explanation as to why any of it is withheld within 14 days of my moving out. RCW 59.18.280. The law also provides that you are liable for twice the amount of the deposit plus court costs and attorney fees for not complying with the above damage deposit requirements.

In our phone conversation earlier today, you claim that you do not have to refund my deposit due to damage to the property. The damage you claim is ordinary wear and tear, which you cannot hold against me under the RLTA. I have pictures of the apartment as it was when I moved out, and a witness who will testify that the apartment was as clean when I moved out as it was when I moved in.

I also have a copy of the checklist we both signed when I moved in. It shows that most of the conditions you complain about existed at the time I moved in.

Please send me a check or money order for \$500 by July 1, 2012. If I do not receive my deposit refund by that date, I will file a case against you in small claims court for the entire amount of money provided for in the Residential Landlord Tenant Act.

Sincerely,

Joe Tenant
1234 Main Street, #B
Tacoma, WA 98425

DISTRICT COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF _____

v.

Defendant(s).

Plaintiff(s),

SMALL CLAIM NO. _____

CERTIFICATE OF SERVICE
[Completed by the person who handed
the Notice of Small Claim to the
Defendant(s)].

I DECLARE:

1. I am over the age of 18 years, and I am not a party to this action.
2. I served _____ [Name of Defendant] with a NOTICE OF SMALL CLAIM:
3. Service was made pursuant to Limited Jurisdiction Court Civil Rule 4(d)

CHECK ONE:

- by delivery to the person named in paragraph 2 above.
- by delivery to _____ [Name], a person of suitable age and discretion residing at the respondent's usual abode.

/

/

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at _____, on _____.
[Place] [Date]

Signature

Print or Type Name

Complete the section below only if fees were paid to the person performing service.

Fees:
Service _____
Mileage _____
Total _____