

How do I Sue in Small Claims Court?

A. Should I sue?

If you are not sure if you should sue in small claims court, read [What is Small Claims Court](#). It includes info such as

- deadlines for suing
- how much you can sue for in small claims court

B. How do I sue?

1. Find the right small claims court.

Go to the district court in the district where the other person lives or where the business you are suing does business. The location of district court is online: www.courts.wa.gov/court_dir. Small claims court is a department of the district court. The district court clerk can tell you if an address is within the court's boundaries.

If you cannot find the person's home address after a reasonable effort, you can sue in the district where they work, using their work address. [RCW 3.66.040](#).

If you are suing over a **traffic accident or bad check**, you can sue in the county where the accident or bad check incident took place. [RCW 3.66.040\(4\)](#); [RCW 4.12.025\(2\)](#).

2. Get a Notice of Small Claim.

Ask the court clerk for a Notice of Small Claim form. The clerk might agree to mail you the form. If so, fill it out, have it notarized, and mail it back. Otherwise, you must sign the completed form in front of the clerk and file it in person. Ask the clerk what their procedure is.

The clerk cannot:

- Fill the forms out for you.
- Give legal advice.
- Try to predict how the judge might rule.

❖ You can get small claims court forms from the Washington State Courts website, www.courts.wa.gov/forms. **Check with your local small claims court before using these.** It may require special forms.

3. Fill out the Notice of Small Claim.

Put your name for "plaintiff." (The plaintiff files the lawsuit.) Put the name of the person or business you are suing for "defendant." (The defendant is who you are suing.)

List your address and Defendant's address below your names. You must have a street address for Defendant. Do not list a P.O. Box number. Include a phone number if available.

You may sue more than one person, listing the name and address of each. If you are suing a married person, name both spouses. If you are suing over a traffic accident, name both the driver and vehicle's registered owner. If this is a business dispute, name the business, its owner, and any employee involved.

❖ **If you name the wrong person(s)/business in your claim**, the judge will dismiss the case against them. You can 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 its "registered agent." [RCW 4.28.080](#). A registered agent is the person or company you must notify that you are suing the corporation. "How do I notify Defendant," below, has more info.

All corporations doing business in Washington State must register their agents' names and addresses with the Washington Secretary of State. [RCW 23B.05.010](#). 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 www.secstate.wa.gov under **Corporations**. If the corporation did not register an agent, you can have it served through the Secretary of State. [RCW 23B.05.040 \(2\)](#).

The Notice of Small Claim has a space to put, briefly, what your claim is about and how much 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 must watch you sign it.

After filling out the Notice of Small Claim form:

1. Get at least two copies of the form. Make them yourself or get them from the clerk.
2. Give the court clerk the original.
3. Pay the clerk a small fee to file the claim (often \$29).
4. Sign the form in front of the clerk, if your county requires it.
5. Either mail a copy of the Notice of Small Claim or have it delivered in person to Defendant. See "How do I notify Defendant," below.

C. How do I notify the Defendant?

You must have the Notice of Small Claim delivered to Defendant. (We call this "service of the claim.") You can mail Defendant the Notice or have it hand-delivered.

If you have it hand-delivered, it must be to Defendant or an adult living with Defendant. If you are suing a business, corporation, government agency, or an absentee landlord, you must deliver the Notice to a registered or managing agent, such as a secretary or rental manager. [RCW 23B.05.040\(2\)](#).

1. Have the Notice of Small Claim form hand-delivered.

❖ Do not deliver the Notice yourself.

- Have the **sheriff's office** deliver the Notice, or hire a professional **process server**. Look on the web for a professional process server. The fee can be anywhere from \$15 to \$45.
- You can have **a friend** age 18 or older deliver the form. They must not be a witness or personally involved in the case.
- The person hand delivering the Notice **must** sign a Certificate of Service. (There is one at the end of this packet.)
- After delivery of the Notice of Small Claim, you must have the signed Certificate of Service (or affidavit) filed with the clerk.
- To avoid mistakes, have the Notice of Small Claim delivered by the sheriff's office or a professional process server. A mistake may delay your case. The judge might dismiss your case.

OR

2. Mail the Defendant the Notice of Small Claim.

- Mail the form at the post office counter. Ask for Registered or Certified Mail. Ask for Return Receipt Requested. Then Defendant must sign a receipt when they get the form in the mail. They mail the receipt back to you.
- When you get the Return Receipt with Defendant's signature (or signature of someone living with Defendant, or a registered or managing agent), make a copy. Take the copy to the court clerk. Keep the original receipt. Bring it to trial.

D. When do I have to notify Defendant?

The Notice of Small Claim must reach Defendant at least **ten days** before the court date. If you are mailing it to 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. Have it delivered within the time limit.

E. When do I get my trial date?

When you deliver the Notice of Small Claim form to the court clerk.

F. 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, sales receipt, photo (of the broken appliance, house damage, car accident damage, and so on), diagram, drawing, lease, canceled check, repair bills, or written damage estimates. At trial, someone personally familiar with the evidence must identify it and explain what it is.

Bring any evidence you may need to defend yourself if Defendant filed a Counterclaim against you. (The Counterclaim might state Defendant does not owe you because you are at fault. It might state you owe Defendant.)

- If you had property taken or damaged, put 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 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 come to small claims court.

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

3. Get a preview.

Ask the clerk when the court holds small claims trials. Watch a trial yourself. Watch what happens and how judges rule. Your court may have a video about small claims court. Ask the clerk about the video.

4. Practice.

Practice presenting your case. Your presentation should be organized and short. Make a list of important points to remember. Include questions to Defendant and your witnesses. Let your witnesses know beforehand what you will ask.

G. I cannot make my trial date. Can I reschedule?

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

H. What should I bring to trial?

- All your evidence, including written documents and physical evidence.
- The original Certificate of Service or post office Return Receipt. They must have the signature of Defendant (or Defendant's spouse, roommate, registered or managing agent).
- Your witnesses.

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

Check in with the court clerk when you get to 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.

J. What happens at trial?

First, the judge usually describes court procedure. Usually at this time all plaintiffs, defendants, and witnesses in all cases swear to tell the truth. Then they call the first case. When they announce yours, go forward with your evidence and witnesses.

K. What do I say at trial?

You must prove Defendant owes you money. Defendant does not have to prove they do not owe you money. If the judge only has your word against Defendant's word, you may lose.

1. Explain your case.

- Describe what happened.
- Show the judge all your evidence.
- Explain why you think Defendant owes what you sued for.
- Explain that you delivered the Notice of Small Claim to Defendant on time. Show the Certificate of Service.
- If you have witnesses, tell the judge you would like them to testify. The judge will tell you when to start. Ask them the questions you prepared about what they saw/heard happen and why you are right.

2. Be ready for questions.

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

L. Does Defendant get to talk?

Yes. After the judge finishes questioning you and your witnesses, the judge lets Defendant present the other side of the story. **Do not interrupt.**

Defendant may have filed a **Counterclaim** saying they do not owe you, because you have done something wrong. Defendant might also say you owe them. The judge will listen to Defendant's evidence about that claim. You will have a chance to defend yourself against the Counterclaim. Wait until the judge tells you may speak again.

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- ❖ If Defendant has a Counterclaim against you, but you never got a notice about it before the trial, tell the judge.
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M. Will the judge announce her ruling?

After hearing both sides, the judge may do one of these:

- Announce a decision immediately.
- Take more time to study the case.

A judge who needs more time will give a written decision within a few weeks. If the judge decides at the close of the trial, and both sides are there, ask the court for a payment plan.

N. What happens if I miss the trial?

If you do not have a very good reason for missing your trial and not notifying the court, you will lose automatically ("by default"). The judge will dismiss the case. They may not reschedule the trial.

If you have a very good reason for missing the trial, you can file a Motion to Vacate Judgment with the district court clerk. Do this as soon as possible after the default judgment. See [Motion to Vacate Judgment/ Order](#), available at WashingtonLawHelp.org. Get help from a lawyer.

If you miss the trial and Defendant filed and served a Counterclaim against you, you might lose the Counterclaim automatically, too.

O. What happens if Defendant misses the trial?

They may lose automatically (by default). You must prove you had Defendant served with the Notice of Small Claim. See "How do I notify Defendant," above. The judge may then decide Defendant must pay what you claimed and proved they owe you.

P. I won. How do I collect?

The court does not collect for you. You might work out a payment plan with Defendant. Defendant can write you a check or pay you cash. If you get a cash payment, give Defendant a written receipt with your signature.

Q. Defendant has paid me. What do I do now?

When Defendant has paid in full, notify the district court clerk in writing. You may be able to do this by signing in the appropriate place on the Small Claims Judgment. File that with the court.

Some counties have a special form available from the small claims department. They usually call it a Satisfaction of Judgment.

R. I won. Defendant will not pay. What can I do?

If Defendant can but will not pay, take the steps below if there is no appeal and Defendant does not pay the judgment **within 30 days** of the decision or according to the court's payment plan:

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 Defendant's wages or bank account **garnished**. Garnishment means they take money from Defendant's bank account/wages and pay you. You can also have some of Defendant's property seized and sold to pay the debt. (We call this "execution.")

You may need a lawyer. Add any lawyer's fees and the cost of certifying the judgment to what Defendant owes you. [RCW 6.17.110\(2\)](#).

3. You can put a "lien" on Defendant's real estate:
 - Buy a transcript of the certified judgment from the district court clerk for a small fee (about \$20).
 - File the transcript in Superior Court for an extra small fee (about \$20). This puts a lien on any of 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 Defendant owns real estate. The lien makes it harder for Defendant to sell the real estate. The lien stays on the property even after Defendant sells it. **This does not guarantee you will be paid.**

A certified judgment is good for ten years. 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 you sued over a car accident and Defendant was uninsured, you can put pressure on them to pay. If Defendant has not paid you within 30 days of the judge's decision, you can have 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. **The agency usually keeps half of anything it collects.** Debt collection lawyers also often charge large fees.

If you do not know what property/wages Defendant has, you can make them come to court again to ask about

- The amount/location of their wages.
- Bank accounts, personal property, and real estate.

You will probably need a lawyer. [Supplemental Proceedings](#) has more info.

S. What if Defendant cannot pay?

You may not be able to collect. Some belongings and wages may not be taken to enforce a judgment. A Defendant who does not have many belongings or much money may file a **Claim of Exemption** to protect some possessions, like a house, furniture, car, clothes, and some wages. [Debtors' Rights in a Lawsuit](#), at [WashingtonLawHelp.org](#), has more info.

T. I lost. Can I appeal?

You lost at trial: yes, if your claim was for \$1,000 or more.

Defendant filed a "Counterclaim" (saying that you did something wrong or owe money): yes, if it was for \$250 or more.

You appeal to the Superior Court. It only looks at the written record and evidence from your small claims trial. [RCW 12.36.055](#). Unless the superior court says so, you may not bring new evidence or speak to support your claim again. There will be no jury, lawyers, or new claims, unless the superior court allows them.

To appeal, take these steps within 30 days of the judge's decision about your case:

1. Get a Notice of Appeal from the district court clerk. Fill it out. Make at least two copies. File the original in the district court.
2. Notify Defendant that you are appealing. Have a copy of the Notice of Appeal delivered ("served") to Defendant. Follow the same steps in "How do I notify Defendant," above.
3. If someone delivered a copy of the Notice of Appeal to the defendant, file the Certificate of Service in the district court **within 30 days**. If you mailed the Notice of Appeal, file the Return Receipt **within 30 days**.
4. Get a transcript (official written record) of the small claims court judgment. There is a small fee for the transcript, usually about \$20. [RCW 3.62.060](#).
5. Post a bond at the district court. [RCW 12.36.020\(2\)](#). The bond pays any judgment against you if you lose your appeal. [RCW 12.36.090](#).
6. Pay the superior court a filing fee for the appeal, usually \$200. You may pay cash, 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 (not have to pay) the filing fee. You might also have to pay a fee for preparing the appeal (about \$40).
7. No more than fourteen days after you file the Notice of Appeal, the district court clerk will file the transcript (official written record) of your small claims case with the Superior Court. [RCW 12.36.050\(1\)](#). The superior court gives your case a new number. The district

court clerk will let you know the new number. After that, contact the superior court for further instructions.

U. Defendant won a Counterclaim against me. If I appeal, do I have to pay in the meantime?

No. You can ask the court to stop the collection. [RCW 12.36.030](#). After filing the appeal in Superior Court, you file a motion asking the court to “stay” (stop) all further action in the district court relating to your case. Get help from a lawyer.

V. I won. Defendant is appealing. He is trying to stop me from collecting the debt in the meantime. What do I do?

Defendant might file a motion asking the court not to let you collect while the appeal is in progress. You can fight this. If you finally lose the appeal, you might have to pay back what you have already gotten from defendant.

W. 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 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. Visit WashingtonLawHelp.org.
- You can get written info from the Washington State Bar Association (206-727-8213) or 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 may be able to find help here: <https://www.wsba.org/for-the-public/find-legal-help>.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of June 2019.

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Sample Demand Letter

Jill Landlord
69 Main St.
Tacoma, WA 98425

Dear Ms. Landlord:

I moved out of your rental property located at 38 Sycamore, Elbe, WA 99302, over two weeks ago. I gave you written notice on May 10, 2017 that I would be moving out on May 31. I was out by the end of that day.

When I moved in, I paid you a damage deposit of \$500. You must return my damage deposit in full or provide a written explanation why you have withheld any of it within 21 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 following the 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. Under state law, you cannot hold this against me. I have pictures of the place when I moved out, and a witness who will testify that it 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 when I moved in.

Please send me a check or money order for \$500 by July 1, 2017. If I do not get 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 _____

Plaintiff(s),

v.

Defendant(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 _____ [Defendant's name] 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.

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