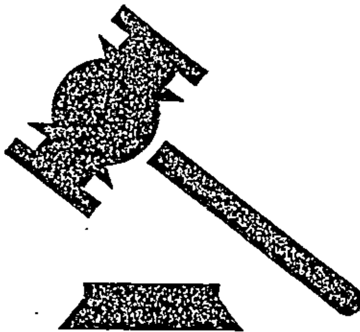
An Introduction
To

SMALL CLAIMS COURT

In the District Court of the State of Washington

For the County of Skamania



Skamania County District Court
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Disclaimer

This brochure is intended to be a general statement of small claims procedure and not legal advice. For more detailed information, please consult applicable provisions of the Revised Code of Washington (RCW) Chapters 3.66, 4.16, 4.28, 12.40, and the Civil Rules for Courts of Limited Jurisdiction, Rule 5 (CRLJ 5). RCWs and court rules can be found at libraries and the following websites: www.leg.wa.gov (for RCWs) and www.courts.wa.gov (for court rules and sample forms). Court contact information can also be found at www.courts.wa.gov.

Who 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. In general, the claim must be filed in the district court of the county in which the defendant(s) reside. Exceptions and specific rules can be found at RCW 3.66.040. The State of Washington may not be sued in 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 Do You Get 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, if known. You must sign the Notice in the presence of the clerk, unless otherwise instructed by the court. The clerk will enter a hearing date, trial date or response date on the Notice form. The clerk may assist you with forms and general information about the process but is not allowed to give legal advice.

Note: The law imposes certain time limits, which range from one to ten years, on filing actions. See

chapter 4.16 RCW to determine which time limit applies to your type of case.

How Much Does It Cost?

You must pay the court clerk a filing fee at the time the claim is filed. The filing fee will be either $35 or $50 depending on whether the county in which you file supports a dispute resolution center. In addition to the filing fee, you may also have to pay to serve or mail the Notice to the defendant (see below). If you win your case, you may be able to have the defendant pay the costs of filing and service.

Notifying the Defendant

Once the Notice of Small Claim is filed with the clerk, it must be "served" or presented to the defendant by someone other than the person who filed the claim, either by personal service or through the mail. The Notice can be served in any of the ways listed in RCW 4.28.080, including giving a copy of the Notice to the defendant or leaving it at the defendant's usual residence with a person who is responsible enough to give it to the defendant.

The Notice can be served only by (1) a person over the age of 18 who is competent to be a witness and is not a party to the action, or (2) the sheriff or a deputy of the county in which the court is located. Instead of personal service, the Notice can be sent to the defendant by registered or certified mail. If the Notice is mailed, a return receipt with the signature of the party being served must be filed with the court. The defendant must be served the Notice at least ten calendar days before the scheduled hearing.

Note: The defendant may file a counterclaim by paying a fee, filing the claim with the court, and serving the plaintiff with notice of the counterclaim.

What If We Settle Before the Hearing?

In most cases, neither party is one hundred percent right or wrong. Because it is important to use judicial resources wisely, you are encouraged to try to settle your case before it goes to hearing. If you settle the dispute before the hearing, you must inform the court so the hearing can be canceled and your case dismissed. If the other party agrees to pay at a

later date, you may ask the court for a continuance. If the other party pays before the postponed date, ask the court to cancel the hearing. If you do not receive your money by the time of the continued hearing, proceed with the case in court. *If you drop the suit, the filing fee and service costs are not returned.*

Preparing for the Trial

Whether you are the plaintiff or the defendant, you can help yourself by being well prepared. To prepare for the trial, collect all papers, photographs, receipts, estimates, canceled checks or other documents that concern the case. It may be helpful to write down ahead of time the facts of the case in the order that they occurred. This will help you to organize your thoughts and make a clear presentation of your story to the judge.

It is also a good idea to sit through a small claims court session before the date of your hearing. This will give you first-hand information about the way small claim cases are heard.

What Happens at the Hearing?

When you arrive at the court, report to the courtroom in which your case has been assigned. Do not be late. When your case is called, come forward to the counsel table and the judge will swear in all the parties and witnesses.

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

Don't be nervous—remember that a hearing in small claims court is informal. The judge will ask the plaintiff to give his or her side first, and then will ask the defendant for his or her explanation. Be brief and stick to the facts. The judge may interrupt you with questions, which you should answer honestly and to the best of your knowledge.

Be polite, not just to the judge, but also to your opponent. Do not interrupt. Whatever happens, keep your temper. Good manners and even tempers help the fair, efficient conduct of the hearing and make a good impression.

After both sides have been heard by the judge, he or she will normally announce the decision right then and will enter a judgment with his or her decision.

What If a Party Doesn't Appear at the Hearing?

If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim proven in court, plus costs—provided the plaintiff can show proof of service. If the plaintiff fails to appear, the claim is dismissed; however, generally the court will permit the plaintiff to start over, if good cause for the nonappearance is shown.

What Happens After the Judge Makes a Decision?

After the judge hears both sides, the court will issue a judgment or dismiss the case. If the plaintiff wins, the judge will order the defendant to pay a certain amount for the claim, as well as the costs the plaintiff spent to bring the case and any interest on the amount owed. Once the judgment is issued, the clerk will enter it into the civil docket of the court and will provide a certified copy of the judgment to the prevailing party for no additional cost.

Even if you have a judgment, it does not necessarily mean that you will be paid. <u>The Small Claims Court does not collect the judgment for you.</u> If the debtor does not pay right away, the court may order a payment plan. If the losing party fails to pay, the judge may increase the amount of the judgment to cover the cost of enforcing the judgment. If no appeal is taken and the judgment is not paid within 30 days, or in the time set in a mediation agreement or payment plan, the prevailing party may seek to enforce the judgment through the collections process, which could include garnishing the defendant's wages or bank accounts; or seeking to obtain personal property of the debtor. Remember, the court clerks cannot give legal advice so you may need the assistance of an attorney or collection agency, whose fees may be paid by the debtor.

What Happens If You 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. The party who wants to appeal must take the following steps within 30 days of the entry of judgment:

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 $230 superior court filing fee either in cash, money order or cashier's check payable to the Clerk of the Superior Court, and pay a $40 appeal preparation processing fee to the district court.
5. Post a cash or surety bond in a sum equal to twice the amount of the judgment and costs or twice the amount in controversy, whichever is greater, at the district court.

When the appeal and bond are transferred to superior court, the appellant (person appealing the decision) may request that the superior court suspend enforcement of the judgment 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.

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