

Small Claims Forms & Information

The forms available on this page are available in PDF file format. They can be filled out on-line and printed OR the blank forms can be printed and filled out by hand.

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Please note that Justice Court personnel are not able to provide the public with legal advice.

Step 1

Complaint

- A Complaint is a brief, concise statement of the facts making up the Plaintiff's complaint. A dollar amount, and/or the return of specific property, and the date of the transaction must be included on the Complaint.
- The amount demanded in the complaint cannot exceed \$7,000 excluding costs.
- The Defendant must be able to be served within the county where the Complaint is filed.
- The Complaint must be SWORN TO before the Court. Do not sign the Complaint until instructed by the court clerk. Bring a government-issued photo ID.
- Make copies – the court requires the original and 2 copies (one for Plaintiff and one for Defendant). If there is more than 1 defendant, make an additional copy for each.

[Sample of Small Claims Complaint](#)

Step 2

Order and Notice to Defendant

- Complete just the Plaintiff and Defendant information at the top exactly as it appears on the Complaint.
- Make copies – same as the Complaint (above)

[Sample of Order and Notice to Defendant](#)

Step 3

Praecipe – Instructions for Service

- Prepare a Praecipe (or directive) The plaintiff chooses who will serve the Complaint, i.e. the Sheriff's office or process server.
- The court only requires the original Praecipe. No additional copies are needed.

[Sample of Praecipe - Instructions for Service](#)

[Link to Process Server List](#)

Step 4

Filing

- After the papers are properly filled out and copies made, take them to the counter at Justice Court.
- The clerk will ask for ID and have the Plaintiff swear to the information on the documents.
- The filing fee is \$30.
- There are additional costs for service of the papers by the Sheriff's office or process server.
- Full reimbursement of fees may be reimbursed by opposing party at the conclusion of the case.

Step 5

Service of Complaint and Order and Notice to Defendant

- The Defendant (opposing party) will be notified of the lawsuit and date of trial by service of the papers by the Sheriff or process server.
- After the papers are served, the Notice to Defendant must be returned to the Court with an accounting of the fees spent.
- If the Notice to Defendant is returned to the Plaintiff, **the Notice must be returned to the Court immediately.**
- If the Notice to Defendant is not served at least 5 days prior to mediation, a new mediation date will be set by the Court and given to the Sheriff or process server for re-service. This “reset” procedure will be done as many times as is necessary to serve the Defendant and allow 5 days after service before the mediation date.

Step 6

Counterclaim from Defendant

- The Defendant may file a counterclaim against the Plaintiff if the amount claimed arises from the same transaction or occurrence as the Plaintiff’s complaint AND does not exceed \$7,000.
- If a counterclaim is filed, it must be filed with the Court and served on the Plaintiff at least 72 hours prior to the date of the mediation. Service of the counterclaim, on the Plaintiff, is made in the same manner as the service of the Notice to Defendant.
- There is a \$20 Appearance fee that the Defendant needs to pay.

Step 7

Notice of Removal

- The Defendant may file a Notice of Removal in a Small Claims action and have the entire case transferred to the Regular Civil Justice Court.
- If the Defendant DOES NOT FILE A NOTICE OF REMOVAL WITHIN 10 DAYS AFTER RECEIVING SERVICE OF THE NOTICE TO DEFENDANT, THE DEFENDANT WAIVES THE RIGHT TO A JURY TRIAL AND THE REPRESENTATION BY AN ATTORNEY.

Civil Motion

Note: If the parties reach an agreement or solution prior to mediation or trial, both parties are required to notify the Court.

Step 8

Mediation

- Once all documents have been filed, the case will automatically be scheduled for Mediation. The Clerk will set a Mediation date and send notice to both the Plaintiff(s) and Defendant(s).
- Bring any documents – statements, invoices, photographs, etc. – that are related to, or support the claim. Provide copies for the opposing party.
- No attorney is allowed, unless all parties have an attorney.

Note: An attorney is not necessary to pursue a small claims action or defend against one. HOWEVER, everyone has a legal right to obtain one. Review Steps 7 and 8 of this instruction sheet on the process regarding an attorney. It is recommended that anyone who does not understand these forms or instructions, should contact an attorney.

Step 9

Trial

- If the case did not settle at Mediation, it will be up to the Plaintiff to ask the Court to set the case for a Trial.
- At Trial bring any written agreements or documents that pertain to the case.
- Mark each document to be introduced with an Exhibit letter or number on the bottom of the first page of each Exhibit. (Plaintiffs use numbers for their Exhibits and Defendant use letters.) The first document would be marked

as “Exhibit A,” the second as “Exhibit B,” etc. Bring the original for the Court, a copy for yourself and a copy for the Defendant.

- The trial is an informal proceeding and will be recorded either electronically or stenographically.
- If the Defendant does not appear at Trial, a default judgment may be issued after the Plaintiff presents all evidence necessary to prove the allegations of the complaint.
- At the trial, the Court will give a brief review of the procedure that will be followed during the proceedings. The parties will be required to prove to the Court the facts of the complaint and/or counterclaim. At the trial, each party will be expected to bring all of their witnesses, written documents (i.e., leases, contracts, bills of sale), or other evidence needed for judgment.
- After the trial is held, the Court will issue a judgment based on the facts presented in the case. When the trial is concluded, the Judge will make the findings and enter judgment.

Step 11

Collection of Payment

- If a judgment is obtained in Justice Court either by default or after a trial is held, the prevailing party may proceed to the actual collection of the judgment. Payment of the judgment is due immediately, however, it is recommended to wait ten (10) days after judgment before beginning the collection process.
- The parties may negotiate a payment plan for the payment of the judgment. The court encourages any payments to be handled directly between the parties involved.

Step 12

Execution

- If the winning party does not receive payments in a timely fashion or if no payment arrangement is made, a request for an Execution may be made to the Court. An Execution is an order to the Sheriff/levying officer to assist in the collection process. An Execution may be made against a savings or checking account, personal property (not a necessity of life), wages, vehicles, campers, or any other assets the judgment debtor may have.
- The prevailing party will be required to fill out a Praecipe specifically identifying “what” to execute against. This includes bank name and address, title and identification numbers, color, make, model and number, and any other information that will specifically identify the property or item to be seized. The Sheriff/levying officer must be advised where the property to be seized is located and any and all other pertinent information.
- Research of the item to be seized must be researched to be sure that the item is free from lien. If there is a lien on an item, the prevailing party will be responsible to the lien holder for the amount due.
- There is an additional fee required for service of the Execution. The costs vary depending on the process server and costs will be added to the judgment as accruing costs. Any monies collected, such as wages or money retrieved from a checking or savings account, will be distributed to the prevailing party, after the serving officer collects his costs. If personal property is seized, the property will be sold at Sheriff’s sale and the proceeds, less the Sheriff’s costs, will be given to the prevailing party.
- When an Execution is filed, be aware that the entire amount due may not be received the first time. It may be necessary to file more than one Execution. The Debtor is allowed to withhold a certain percentage from Execution to support his/her family or for the necessities of life. An Execution may be served numerous times while it is valid. Only one Execution may be issued at one time. A return of Execution, with or without anything being received, must be filed with the Court before another Execution may be issued.

[Writ of Execution Form](#)

Step 13

Show Cause Hearing

- The prevailing party may also request the Court for a “Show Cause Hearing” and examination of the judgment debtor. The debtor will be subpoenaed into Court and ordered to show cause why no effort has been made to satisfy the judgment. This hearing will only be set after an Execution has been attempted against the debtor for the judgment due.

- At the hearing, the prevailing party will be allowed to ask the debtor questions about his income, monies available, personal property value, spouse's income, and any other questions regarding the debtor's financial history to satisfy the amount of the judgment.

Step 14

Certification of Transcript of Docket

- A "Certification of Transcript of Docket" may also be filed with the Clerk of the District Court that will place a lien on any real property (land or home) that the debtor may have. The property will not be sold without satisfaction of the judgment prior to sale.

Step 15

Length of Judgment

- The Judgment is good for ten (10) years, so although the prevailing party may be unable to collect on the judgment right away, the debtor's job situation may change within the time limit and an Execution can be filed any time within the ten (10) years. The judgment will also be recorded against the debtor's credit record with the Credit Bureau.

Step 16

Satisfaction of Judgment

- The prevailing party must notify the Court as soon as the judgment is satisfied. The prevailing party will be responsible if the judgment is satisfied and not cleared from the debtor's record in Court.

[Satisfaction of Judgment Form](#)

Step 17

Appeal

- Either party will have 10 days to file a written notice of appeal with the Court and complete the procedures necessary. An appeal to the District Court is limited to questions of law only. There is a filing fee payable to the Clerk of the District Court and an appeal bond, if set by the Justice of the Peace.
- All evidence may be held for thirty (30) days after the judgment is issued. After that time, evidence may be picked up from the court. The Court will not mail the evidence back. If an appeal is filed, the evidence is transferred to the District Court.

[Notice of Appeal Form](#)

**NEITHER THE JUDGE NOR THE CLERK ARE ALLOWED TO GIVE LEGAL ADVICE.
IT IS PROHIBITED BY LAW!
THEY MAY ONLY ASSIST WITH THE NECESSARY FORMS, INSTRUCTIONS,
AND THE OPTIONS AVAILABLE TO PURSUE OR DEFEND A SMALL CLAIMS ACTION.**