

Although an attorney may not represent either party in small claims court, the plaintiff may be entitled to reasonable attorney fees, if an attorney has been consulted and proof is shown, and any other costs incurred to enforce the judgment.

**Remember, the clerks cannot give you legal advice.** You may need the assistance of an attorney or collection agency at this point.

**A satisfaction of judgment must be filed with the court upon payment in full.**

### Can you appeal a case if you lose?

The party who files a claim or counterclaim cannot appeal unless the amount claimed exceeds \$1,000. No party may appeal a judgment where the amount claimed is less than \$250. If an appeal is taken to the superior court, the appealing party is required to follow the procedures set out in the Revised Code of Washington (RCW) 12.36. The following steps **must** be taken within thirty (30) days of the entry of judgment:

- Prepare a written Notice of Appeal and file it with the Kitsap County District Court.
- Pay to the Kitsap County District Court the superior court filing/arbitration fee (\$440 directed to the superior court clerk) and a \$40 preparation cost to the Kitsap County District Court.
- Serve a copy of the Notice of Appeal on all parties.
- File with the Kitsap County District Court a bond or execution (for approval) made payable to the Kitsap County Superior Court Clerk in the sum of twice the amount of judgment and costs or twice the amount in controversy, whichever is greater.

### What if defendant is in military?

The court requires that the plaintiff provide an affidavit affirming that the defendant is not active military. If the defendant is in the military, additional steps to conform to federal law are required. See information posted at [www.usmilitary.about.com](http://www.usmilitary.about.com) or consult with an attorney. For information regarding the Service members' Civil Relief Act go to [www.jagcnet.army.mil](http://www.jagcnet.army.mil).

## SATISFACTION OF JUDGMENT

### Consult with an attorney.

The following information is intended to be helpful, but cannot be complete in all circumstances or answer all legal questions. If you wish to arrange satisfaction of judgment without the assistance of your own attorney, the following information may be useful.

#### Option One:

If you feel comfortable doing so, exchange your personal or certified check or money order in person with the plaintiff. At the same time have the plaintiff sign the Satisfaction of Judgment form (on the back of the judgment itself or get a new copy from the Clerk of the court). Then file the Satisfaction of Judgment with the Clerk of the District Court.

Save your original cancelled check or proof of money order or certified check in the event it is later needed.

#### Option Two:

Send your personal or certified check or money order to the plaintiff via the US mail. (Certified mail with a return receipt is suggested, but not required.) Enclose a Satisfaction of Judgment form (on the back of the judgment itself or get a new copy from the Clerk of the Court). Enclose a stamped self-addressed envelope for the plaintiff to return the signed Satisfaction of Judgment form to you. Immediately upon receipt, file the Satisfaction of Judgment with the clerk of the District Court.

Save your original cancelled check or proof of money order or certified check in the event it is later needed.

### Option Three:

If you are unable or unwilling to meet with the plaintiff personally or if the plaintiff refuses or neglects to return the signed Satisfaction of Judgment form to you, you may ask the court to enter an Order of Satisfaction of Judgment. Forms are available from the Clerk. You will need the following:

Have a copy of the judgment or know the date and amount of the judgment. Attach sufficient proof that you have paid the judgment in full. For example, original check returned from the defendant's bank and stamped by the bank as negotiated by the plaintiff; copy of certified check or money order with verification that it has been negotiated by the plaintiff; original receipt signed by the plaintiff; and/or original document signed by the plaintiff confirming "paid in full").

Be able to arrange personal service of court paperwork on the plaintiff(s) (if personal service is not possible, you will need to consult with an attorney). Be able to appear in court within two to four weeks. File or bring proof of service with you to the court hearing (a form for proof of service is available from the Clerk).

**NO GUARANTEE:** The Judge will make a decision about whether or not to enter the Satisfaction of Judgment by court order. There is no guarantee. Only the Judge may decide if proof is sufficient. The Clerk cannot give legal advice. Please consult with your own attorney if you have other questions.

**WARNING:** Under some circumstances you may also need to get a certified copy of the Satisfaction of Judgment from the Clerk and record it with the Superior Court and/or the County Auditor.

Revised 1/08/10

JUDGE JAMES M. RIEHL, DEPARTMENT NO. 1  
JUDGE JEFFREY J. JAHNS, DEPARTMENT NO. 2  
JUDGE MARILYN G. PAJA, DEPARTMENT NO. 3  
JUDGE STEPHEN J. HOLMAN, DEPARTMENT NO. 4

# Introduction to Small Claims



CIVIL DIVISION

614 Division Street, MS-25  
Port Orchard, WA 98366  
Fax: 360-337-4865

## HOW TO FILE A SMALL CLAIM



The clerk will assist you with all the steps and procedures of starting a suit, but the clerk is not allowed to give legal advice or attempt to predict how the judge might rule in a given situation.

### Who can sue and be sued?

Any individual, business, partnership or corporation (with a couple of exceptions) may bring a small claims suit for recovery of money only for an amount up to \$5,000. A **small claims case must be filed in the county of the defendant's residence**, or in the case of a traffic accident, the county where the accident occurred. (There are some exceptions to this rule.)

### How much does it cost?

There is a \$39 filing fee paid by the plaintiff and made payable to District Court at the time the suit is filed. In addition, you may have some additional fees payable to the sheriff or process server to have the Notice of Claim served on the defendant. As an alternative, you may serve the notice by certified or registered, return receipt mailing. If you win your case, you are entitled to recover costs, including filing fees and service costs.

### How to get started.

First, you will prepare a Notice of Claim form, which is provided by the clerk. This must be signed by you. The Notice of Claim may be filed via the mail. Send the Notice of Claim to 614 Division Street, MS-25, Port Orchard, Washington 98366, with the \$39.00 filing fee.

On the notice form a trial date and case number will be entered by the clerk. It is the plaintiff's responsibility to accurately identify the defendant, provide a proper address and, if possible, provide a phone number. All copies of the claim form, except the original, will be returned to you for service of the notice.

### How to serve the notice.

The plaintiff is responsible for arranging service of the claim form on the defendant. The clerk will not make these arrangements.

The Notice of Claim must be served on the defendant not less than ten (10) days before the trial date. A return of service or mail return receipt bearing the defendant's signature, must be filed at or before the time of trial. **You cannot personally serve the claim.** Service of the claim form can be accomplished by any of the following:

- The Sheriff's Office;
- A process server;
- Any person of legal age (18) who is not connected with the case either as a witness or as a party;
- By mailing the copies to the defendant by registered or certified mail with a return receipt requested. However, this type of service is valid only if the person you are suing signs the return receipt and the receipt is then filed with the court.

### What if settled prior to court?

You are encouraged to try to settle your case before trial. If you settle the dispute before the trial, you should inform the court in writing, which will result in the Judge dismissing your case. If the defendant agrees to pay at a later date, you may appear at court on your trial date and request a continuance. If the other party pays before the postponed date, you should inform the court in writing, which will result in the Judge dismissing your case. If you do not receive your money by the time of the continued trial, proceed with the case in court.

**(If you drop the suit, your filing fee and service costs are not refunded.)** If you do not appear on your trial date, your case will be dismissed.

### Requests for continuances.

All requests for continuances by either party must be heard by the Judge in court, on the record. (See the Clerk for proper motion forms and affidavits of service.)

### Trial location.

## TRIAL INFORMATION

Trials may be conducted at one of two different locations. Please make note of which location is checked on the Notice of Claim form.

### Preparing for the trial.

To prepare for the trial collect all papers, photographs, receipts, estimates, canceled checks or other relevant documents. 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 organize your thoughts and make a clear presentation of your story to the judge. You should bring any other physical or documentary evidence you think might be helpful. **On your hearing date, bring 3 sets of any papers to be presented in court.**

Remember you can help yourself by being well prepared. It is a good idea to sit through a small claims court session before the date of your trial. This will give you first-hand information about the way small claims cases are heard.

### What happens at the trial?

Trained mediators from Dispute Resolution Center of Kitsap County (DRC) will be present at the time of your trial to provide mediation services at no cost to either party. You may contact DRC at 360-698-0968 prior to the trial if you want to attempt to reach a settlement.

Mediation is mandatory. All parties will be required to attempt to reach a settlement on the day of the trial. If you are not able to reach a settlement, you will then appear in front of the judge.

Remember that a trial in small claims court is informal. The judge will ask the plaintiff to give his or her side first, 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 to the best of your knowledge.

**Be polite (don't interrupt)** - not just to the judge, but also to your opponent. Whatever happens, keep your temper. Good manners and even tempers help the fair, efficient conduct of the trial 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 sign and hand the parties a judgment. However, the decision may be taken under advisement, depending on the circumstances, and you will be notified, in writing, of the decision.

### What if my opponent does not appear for trial?

If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim stated on the claim form, plus costs, provided the plaintiff can show proof of service and presents a prima facie case for damages. If the plaintiff fails to appear, the claim will be dismissed. However, the court may permit the plaintiff to start over if good cause for the nonappearance is shown.

### How do I collect my money?

A money judgment is a judicial determination of how much money is owed. The Small Claims Court **does not** collect the judgment for you. If no appeal is taken and the judgment is not paid within thirty (30) days, you may request, in writing, that a transcript be issued. There is a \$20.00 fee for the transcript. This enables you to proceed with a method of collection such as garnishment of wages, bank account and other monies of the defendant; or an execution may be issued on cars, boats or other personal property of the judgment debtor.