

KITSAP COUNTY DISTRICT COURT

APPEALS CHECKLIST

(SMALL CLAIMS)

The following checklist is a summary of the Appeals Instructions discussed after the checklist –

- ___ 1. Litigant Confidential Information Sheet. [Mandatory] Provide to **District Court** if your information has changed or Information Sheet has not been previously provided.

- ___ 2. Notice Of Appeal. [Mandatory] File the original with **District Court**. The court clerk will provide a copy of the Notice Of Appeal to you. The copy will have a “Filed” stamp and show the date the Notice Of Appeal was filed. **Do not** file the Notice Of Appeal with Superior Court.
Date due – _____.

- ___ 3. \$530 Filing Fee. [Mandatory] Unless excused by **District Court**, pay the \$530 small claims appellate filing fee to **District Court** when the Notice Of Appeal is filed. A cashier’s check, money order, or business check (no personal checks) is made payable to “**Kitsap County Clerk**.”

- ___ 4. Waiver of Filing Fee. [This is optional]. If a party cannot afford the \$530 small claims appellate filing fee, file a Motion For Waiver Of Fees with **District Court** when the Notice Of Appeal is filed.

- ___ 5. Appellate Bond. [Mandatory] File a small claims appellate bond with **District Court** within 30 days after the **District Court** small claims judgment is rendered or the judge’s decision was made.
Date due – _____.

- ___ 6. Stay Of Enforcement Of District Court Judgment. [This is optional] File with **Superior Court** a –
 - (a) Motion To Stay Enforcement Of District Court Judgment; and
 - (b) Note for motion docket (this Superior Court form is not provided on the District Court website).Both documents must be served on all opposing parties. A motion to stay may only be filed after the Notice Of Appeal is filed with **District Court**, the \$530 small claims appellate filing fee is paid to **District Court** unless excused, and the small claims appellate bond is approved by **District Court**.

- ___ 7. Appellate Declaration Of Service – Notice Of Appeal. [Mandatory] After the Notice Of Appeal is filed with **District Court**, the party filing the Notice Of Appeal shall –
 - (a) Promptly serve the copy provided by the court clerk of the Notice Of Appeal (with the “Filed” Stamp) on all other parties; and
 - (b) Complete and file with **District Court** the Appellate Declaration Of Service form.

- ___ 8. \$40 Preparation of Record Fee. [Mandatory] (but see Waiver of Filing Fee above) Unless excused, appellant shall pay the \$40 preparation of record fee within 10 days of being notified that the record is prepared. Credit card, cash or a cashier's check, money order, business check, or personal check is made payable to "**Kitsap County District Court**."
- Date due – _____.
- ___ 9. Superior Court Trial De Novo. Appear for trial in **Superior Court** which is scheduled for _____ at _____ in courtroom _____.

KITSAP COUNTY DISTRICT COURT

APPEALS CHECKLIST INSTRUCTIONS

(SMALL CLAIMS)

IMPORTANT NOTICE – District Court personnel are not permitted to fill out any forms. District Court personnel are also not authorized to give legal advice. District Court strongly encourages an unrepresented party to seek legal advice from an attorney. If you need help, please review the “*Guide To Website Forms*” on the District Court website.

The information contained here is intended to address the most frequently asked questions. It is not comprehensive and should not be construed as legal advice.

IMPORTANT NOTICE REGARDING LITIGANT CONFIDENTIAL INFORMATION – District Court needs information about every party involved in a case so the court can accurately identify the parties and be able to contact them.

If you have not already done so, please complete a Litigant Confidential Information Form and provide it to the court. You should also use the form to update information previously provided to the court. The form is available at many locations on the District Court website.

APPEAL PROCEDURES – The procedures for perfecting an appeal from a District Court small claims case are provided for in Rules 72 through 75A of the Civil Rules for Courts of Limited Jurisdiction (CRLJ), chapter 12.36 RCW (Small Claims Appeals), and Rule 1.1(b) of the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).

\$1,000 MINIMUM AMOUNT-IN-CONTROVERSY LIMITATION ON A PARTY’S RIGHT TO APPEAL

THEIR CLAIM – A plaintiff may not appeal a District Court small claims decision concerning the plaintiff’s claim unless the amount claimed by the plaintiff is \$1,000 or more. A defendant may not appeal a small claims decision concerning the defendant’s counterclaim unless the amount claimed by the defendant is \$1,000 or more. RCW 12.40.120.

\$250 MINIMUM AMOUNT-IN-CONTROVERSY LIMITATION ON A PARTY’S RIGHT TO APPEAL AN OPPOSING PARTY’S CLAIM

– A party may not appeal a District Court small claims decision concerning an opposing party’s claim unless the amount claimed by the opposing party is \$250 or more. RCW 12.36.010; RCW 12.40.120.

TRIAL DE NOVO APPEAL – An appeal from a District Court small claims decision shall be a trial de novo on the record from District Court. CRLJ 72(b) and 75(c); RCW 12.36.055(a).

APPEAL PROCEDURES SYNOPSIS – The procedures discussed below are guidelines intended to assist litigants and do not substitute for knowledge of and compliance with the CRLJs or chapter 12.36 RCW.

1. **HOW TO INITIATE AN APPEAL.** A party who wants to appeal a District Court small claims judgment or decision shall file a Notice Of Appeal with District Court within 30 days after the judgment is rendered or decision is made. This is the only jurisdictional requirement for an appeal. A party should not file the Notice Of Appeal with Kitsap County Superior Court. CRLJ 73(b)(1); RCW 12.36.020(1).
2. **\$530 FILING FEE UNLESS EXCUSED.** Unless excused by District Court, a cashier's check, money order or business check (no personal checks) for \$530 made payable to "Kitsap County Clerk" shall be included at the time a Notice Of Appeal is filed with District Court. CRLJ 73(b)(2); RCW 12.36.020(1). The small claims appellate filing fee is calculated as follows –
 - A. **\$200 Statutory Filing Fee.** RCW 36.18.020(2)(b).
 - B. **\$30 State Surcharge.** RCW 36.18.020(5)(b).
 - C. **\$50 State Surcharge.** RCW 36.18.020(6).
 - D. **\$250 Mandatory Arbitration Fee.** RCW 12.36.050(1); Kitsap County Superior Court Local Rule KCLMAR 1.2; and Kitsap County Code 4.135.010.
3. **APPELLATE BOND.** Except when the appellant is a county, city, town, or school district, an appellate bond or undertaking shall be executed on the part of the appellant and filed with and approved by District Court within 30 days after the small claims judgment is rendered or decision made. CRLJ 73(c); RCW 12.36.020(1) and (2).
 - A. **No Stay of District Court Proceedings Sought – \$100 Appellate Bond.** A District Court small claims judgment will be enforced pending appeal unless a stay of the District Court judgment is granted by Superior Court. RCW 12.36.030.

If the appellant is not seeking a stay of the District Court small claims judgment pending appeal, the appellant shall file a \$100 appellate bond with and approved by District Court with one or more sureties conditioned that appellant will pay all costs that may be awarded against appellant on appeal. CRLJ 73(c).
 - B. **Stay of District Court Proceedings Sought – Appellate Bond in Twice the Amount of Judgment and Costs.** A District Court small claims judgment will be enforced pending appeal unless a stay of the District Court judgment is granted by Superior Court. RCW 12.36.030.

If the appellant is seeking a stay of the District Court small claims judgment pending appeal, the appellant shall file an appellate bond with and approved by District Court with two or more personal sureties, or a surety company as surety, in the sum of twice the amount of the judgment and costs, conditioned that appellant will pay such judgment, including costs, as may be rendered by

Superior Court against appellant on appeal. CRLJ 73(c); RCW 12.36.020(2).

4. **SERVICE OF NOTICE OF APPEAL ON ALL OTHER PARTIES.** After a Notice Of Appeal is filed with District Court, the party filing the Notice Of Appeal shall –
 - A. Serve a copy on all other parties; and
 - B. Promptly file an Appellate Declaration Of Service with District Court.
CRLJ 5 and 73(b)(4); RCW 12.36.050(1).
5. **FILING NOTICE OF APPEAL, FILING FEE AND APPELLATE BOND WITH SUPERIOR COURT.** The District Court Clerk shall immediately file a copy of the Notice Of Appeal, filing fee unless excused, and appellate bond with Superior Court upon completion of all of the following, RCW 12.36.020(3) and CRLJ 73(b)(3), –
 - A. Notice Of Appeal. Filing of a Notice Of Appeal; and
 - B. Appellate Filing Fee. Payment of the \$530 appellate filing fee unless excused by District Court; and
 - C. Appellate Bond. District Court approval of appellate bond filed by appellant.
6. **WAIVER OF APPELLATE FILING FEE.** A party who wants to appeal a small claims judgment or decision but cannot afford the \$530 appellate filing fee may ask District Court to waive the filing fee. A Motion For Waiver Of Fees should be filed with District Court with the Notice Of Appeal. District Court will thereafter review the motion. CRLJ 73(b)(2); GR 34.
7. **STAY OF DISTRICT COURT JUDGMENT.** A District Court small claims judgment will be enforced pending appeal unless a stay of the District Court judgment is granted by Superior Court. RCW 12.36.030.

When an appeal and any necessary bond or undertaking are filed with Superior Court by the District Court Clerk, an appellant may move to stay the District Court judgment. A Motion To Stay Enforcement Of District Court Judgment must be filed with Superior Court. If the stay is granted, all further District Court proceedings on the judgment shall be suspended. RCW 12.36.030; CRLJ 73(d).

If the requested stay is denied, or no stay is requested, the District Court small claims judgment will be enforced in Superior Court in the same manner as any other judgment rendered by Superior Court. RCW 12.36.030.

8. **NOTICE OF PREPARATION OF RECORD – \$40 UNLESS EXCUSED.** The District Court Clerk shall prepare the complete record and a verbatim electronic recording of the trial within 14 days after the District Court Clerk filed the Notice Of Appeal with Superior Court, and notify each party that the record is ready to transmit to Superior Court.
- A. **Record.** The complete record shall consist of a transcript of all entries made in the District Court docket, together with all the process and other papers relating to the case, including any exhibits. RCW 12.36.060(2); CRLJ 75(c).
- B. **Verbatim Electronic Recording.** A verbatim electronic recording of the District Court trial shall also be transmitted by District Court. CRLJ 75(c).

The \$40 fee for preparing the record shall be paid by the appellant within 10 days of the District Court Clerk notification unless the party has been excused from paying.

Credit card, cash or a cashier's check, money order, business check, or personal check is made payable to "Kitsap County District Court" for preparing the record. RALJ 6.2(a); RCW 3.62.060(1)(h).

9. **TRANSMITTAL OF RECORD.** Immediately after receiving the \$40 preparation of record payment or after preparing the record where payment is excused, the District Court Clerk shall certify the complete record and verbatim electronic recording are correct, transmit them to Superior Court, and notify the parties the record has been submitted. RCW 12.36.050(1).
- Note** – Unlike other types of cases being appealed (civil, criminal, infraction), a party appealing a small claims decision is not required to prepare and submit a Designation Of Record.
10. **SUPERIOR COURT JURISDICTION.** Upon the filing by District Court of the transmittal of record with Superior Court, the Superior Court shall become possessed of the cause and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court including enforcement of any judgment rendered. CRLJ 75(b); RCW 12.36.050(1).
11. **NO ADDITIONAL PLEADINGS REQUIRED IN SUPERIOR COURT UNLESS ORDERED.** The small claims issue before District Court shall be tried in Superior Court without other or new pleadings, unless otherwise ordered by Superior Court. CRLJ 75(b).
12. **DISMISSAL FOR DEFECTIVE BOND.** No small claims appeal shall be dismissed on account of any defect in an appellate bond if the applicant, before the motion is determined and within 10 days notice to appellant of such defect, shall execute and file with Superior Court such bond as should have been executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect. CRLJ 73(f); RCW 12.36.080.

13. **JUDGMENT AGAINST APPELLANT AND SURETIES.** If on the small claims trial in Superior Court the judgment is against the appellant in whole or in part, such judgment shall be rendered against the appellant and sureties (the person or entity named) on the appeal bond.