

Civil Division

Introduction to Small Claims

KITSAP COUNTY DISTRICT COURT

614 Division Street, MS-25

Port Orchard, WA 98366

districtcourt@kitsap.gov

HOW TO FILE A SMALL CLAIMS

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 \$10,000. **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. Exceptions and specific rules can be found at RCW 3.66.020 and RCW 3.66.040. The state of Washington may not be sued in Small Claims Court.

How Long Do I Have to File My Case?

Time limits range from one (1) to ten (10) years. See Chapter 4.16 RCW to determine which time limit applies to your type of case.

How much does it cost?

There is a \$50 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 Kitsap County District Court, 614 Division Street, MS-25, Port Orchard, Washington 98366.

On the notice form a pre-trial date and case number will be entered by the clerk. It is the plaintiff's responsibility to accurately identify the defendant, a description of the claim, and provide a proper mailing address and 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 cannot make these arrangements.

The Notice of Claim must be served on the defendant not less than ten (10) days before the pre-trial date. A return of service or mail return receipt bearing the defendant's signature, must be filed at or before the time of pre-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 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 or consult with an attorney. For information regarding the Servicemembers Civil Relief Act go to www.jagcnet.army.mil.

Mandatory Pre-Trial Hearing:

Any evidence must be exchanged between the parties prior to the Pre-Trial Hearing date.

Attendance by Zoom at the pre-trial hearing is mandatory. Zoom information is located on our webpage (Kitsapgov.com/dc under “Virtual Courtrooms”). A representative from Kitsap Dispute Resolution Center will call through the calendar and in cases where both parties to a case are present, they will be instructed to remove themselves from the Kitsap County Zoom room and enter the Kitsap Dispute Resolution Zoom room to mediate. Trained mediators from the Dispute Resolution Center will meet with the parties to facilitate a settlement. Most Small Claims are resolved through a mutually agreed-upon resolution of the dispute. It is not necessary to bring witnesses to the pre-trial hearing. A trial date will be scheduled if both sides attend the pre-trial mediation but are unsuccessful in reaching a resolution.

Failure to Appear for Pre-Trial Hearing:

If Plaintiff fails to appear for the pre-trial hearing or trial, Defendant may request that the Small Claim be dismissed and that a default judgment be entered on any counterclaims. If Defendant fails to appear for the pre-trial hearing or for trial, Plaintiff may request that a default judgment enter against Defendant. Prior to a default judgment being entered on a claim or counterclaim, the moving party must provide:

- (1) Proof of proper service of the Notice of Small Claim or Counterclaim.
- (2) A factual basis supporting the claim (usually documents and/or testimony).
- (3) Plaintiff’s proof of compliance with the Servicemembers Civil Relief Act.

Requests for continuances.

All requests for continuances by either party must be done in writing and submitted for judge review.

TRIAL INFORMATION

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 trial date, bring 3 sets of any papers to be presented in court.**

If you want the judge to consider images, you must print them. The judge will not consider images stored on a device such as a telephone, camera or laptop, because it cannot be made part of the court record. If you want the judge to look at a video recording, you must provide a device in court to display the video, and you must have a copy of the video that can be kept in the court record. Most small claim trials take approximately 30 minutes. If a judge determines that your trial will take significantly longer, your case may be rescheduled to a date where more time is available.

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. Small Claims calendars are scheduled the first, second and fourth Wednesday at 1:30 pm in courtroom 203.

What happens at the trial?

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. The plaintiff must prove by a preponderance of the evidence that judgment should be awarded. No attorney, legal professional or other person is allowed to represent either side during trial. 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.

How do I collect my money?

A money judgment is a judicial determination of how much money is owed. A judgment entered in small claims court is certified as a District Court civil judgement. The Small Claims Court **does not** collect the judgment for you. Upon entry of the judgment, the prevailing party will receive a certified transcript of the case by requesting such in Room 106. 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.

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 directed to the superior court clerk – **cashier's check or money order ONLY**.
- 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.

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. 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.