

KITSAP COUNTY DISTRICT COURT

SMALL CLAIMS CHECKLIST INSTRUCTIONS

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 (www.kitsap.gov/dc).

HOW DO I BEGIN A SMALL CLAIMS CASE AND FILE DOCUMENTS? If you are the person initially bringing the small claims case (you are called the “plaintiff”), you need to prepare a Small Claims Notice Of Claim and file it with District Court. There are two methods you may use to file a small claims case and three methods you may use to file documents with District Court –

- **ePORTAL [Suggested]**. You can begin a small claims case and file documents in the case through the District Court ePortal. All documents filed through the ePortal must be in PDF formatting.

Visit the District Court website at www.kitsap.gov/dc and click on the ePortal link at the top of the homepage. Signing up for the ePortal is free, and only requires an email address and a password which you create.

In addition to filing documents in your case through the ePortal, you are also able to view significant information about the case including all documents filed in the case, judge and clerk actions, and court dates. You may also print any document filed in the ePortal for free.

The ePortal is available anytime including when the District Court is not open.

- **IN PERSON**. You may begin a small claims case and file documents in the case in person at the Kitsap County Courthouse, 614 Division Street, Port Orchard, WA, in the District Court Clerk’s Office, room 106.
- **E-MAIL**. You may file documents in the case by e-mail at districtcourt@kitsap.gov. All documents filed by e-mail should be in PDF formatting.

However, you may not begin a small claims case by e-mail because a filing fee is required when a small claims case is filed unless the fee is waived by a judge.

SMALL CLAIMS FORMS ON WEBSITE – All forms you will need are available on the District Court website at www.kitsap.gov/dc under the Small Claims link.

THE SMALL CLAIMS PROCESS – If you are the person initially bringing the small claims case (you are called the “plaintiff”), you need to prepare a Small Claims Notice Of Claim and file it with District Court.

It is plaintiff’s responsibility to accurately identify all defendants, provide a description of the claim, and provide proper mailing addresses.

A \$50 filing fee is required when a Small Claims Notice Of Claim is filed. For District Court filing fee payment methods, click on the link “**PAYMENT OF TICKETS, FINES, AND COURT FEES.**” For online payment, the case number will be “new small claim.”

The clerk will provide a copy of the filed Small Claims Notice Of Claim to the plaintiff after the document is filed. At the same time, the clerk will also send to the plaintiff a Notice Of Court Date (Small Claims) which schedules the small claims mandatory pretrial Zoom virtual mediation hearing. The plaintiff is responsible for making arrangements to have both documents served on all opposing parties. Details about how these documents must be served is on the next page.

I AM THE DEFENDANT. WHAT IF THE PLAINTIFF OWES ME MONEY? If a small claims action has been brought against you (you are called the “defendant”) and you believe the plaintiff owes you money, you need to promptly prepare a Small Claims Counterclaim and file it with District Court. You may file your Counterclaim through the ePortal or in person in the Courthouse. You may not file a Counterclaim by e-mail.

It is a defendant’s responsibility to accurately provide a description of the counterclaim.

A \$50 filing fee is required when a Small Claims Counterclaim is filed. For District Court filing fee payment methods, click on the link “**PAYMENT OF TICKETS, FINES, AND COURT FEES.**”

The clerk will provide a filed copy of the Small Claims Counterclaim to the defendant after it is filed. The defendant is responsible for making arrangements to have the counterclaim served on all opposing parties. Details about how these documents must be served is below.

JURISDICTION – NOTIFYING THE OPPOSING PARTY OF A CLAIM OR COUNTERCLAIM THROUGH THE PROCESS CALLED “SERVICE” – District Court has jurisdiction over a small claims claim or counterclaim where three jurisdictional elements are met –

- 1. Does The Court Have Subject Matter Jurisdiction? A district court has jurisdiction over many different types of cases. See the “**SMALL CLAIMS HOMEPAGE**” which outlines the types of small claims cases District Court has the authority to hear, and the types of cases it does not. RCW 3.66.020 and .030; and
- 2. Does The Court Have Amount-In-Controversy Jurisdiction? A district court has small claims jurisdiction where the amount of the claim or counterclaim does not exceed \$10,000 if brought by a natural person and \$5,000 in all other cases. RCW 12.40.010; and
- 3. Does The Court Have Personal Jurisdiction? A district court must also have jurisdiction over each party which is established by properly notifying an opposing party of the claim or counterclaim. The following discussion outlines the proper method of establishing District Court’s personal jurisdiction over an opposing party in a small claims case by the process called “service.”

In a small claims case, an opposing party must be notified about the filing of a small claims notice of claim or counterclaim. This notification occurs by a process where “service” of the notice of claim or counterclaim is properly made upon an opposing party.

RCW 12.40.040 provides that service of a claim or counterclaim on a small claims opposing party can be accomplished by any one of the following four methods –

- Personal service by the Sheriff’s Office; or
- Personal service by a process server registered with the auditor of the county in which the process server resides or operates their principal place of business, RCW 18.180.010(1); or
- Personal service by any person of legal age (18 or older) who – (1) is a competent witness; and (2) is not connected with the case either as a witness or as a party; and (3) does not receive a fee or wage for serving process, RCW 18.180.010(2); or
- Mailing a copy (by registered or certified mail with a return receipt requested) by any person of legal age (18 or older) who – (1) is a competent witness; and (2) is not connected with the case either as a witness or as a party; and (3) does not receive a fee or wage for serving process, RCW 18.180.010(2). This type of service is valid, however, only if the opposing party being served – (1) signs the return receipt; and (2) the receipt is then filed with the court.

[Note – A party (you) or a witness are not permitted to serve a Small Claims Notice Of Claim or Counterclaim on an opposing party.]

The plaintiff is responsible for promptly arranging for service of the Small Claims Notice Of Claim and Notice Of Court Date on all opposing parties. The defendant is responsible for promptly arranging for service of a Small Claims Counterclaim, if any, on all opposing parties.

A Small Claims Notice of Claim and the Notice Of Court Date must be served on all opposing parties not less than ten (10) days before the date scheduled by the clerk for the small claims mandatory pretrial Zoom virtual mediation hearing.

The plaintiff (or defendant if a counterclaim) must immediately file with the court a separate Small Claims Declaration Of Service signed by the person who performed the service after each opposing party is served.

IS DEFENDANT ACTIVE MILITARY OR A DEPENDENT OF ACTIVE MILITARY MEMBER? Federal and state law require a plaintiff to provide a sworn affidavit to the Court stating whether a defendant is active military or a dependent of an active military member.

If a defendant is a person, the plaintiff must complete and file a Small Claims Declaration Of Military Status form no later than one week before the mandatory pretrial mediation hearing. A separate form is required for each Defendant who is a person.

[Note – A Small Claims Declaration Of Military Status is not required if a defendant is a corporation, HOA, partnership or other legal entity.]

The Small Claims Declaration Of Military Status form asks two questions, both of which plaintiff must answer –

- (1) Is Defendant an active service member?
- (2) Is Defendant a dependent of an active service member?

[Note – Plaintiff must answer both question 1 and question 2, and any subparts.]

[Note – The Small Claims Declaration Of Military Status form provides information explaining how a plaintiff can determine a defendant’s military status and military member dependent status.]

If a defendant is active military or a dependent of an active military member, additional steps are required which are discussed on the Small Claims Declaration Of Military Status form.

HOW DO I TALK TO THE JUDGE? YOU MUST FILE A MOTION. The judge is prohibited from directly speaking with any small claims party except in court. If you want the judge to do something for you which is not otherwise discussed in these instructions, you must file a motion.

HOW DO I FILE A MOTION? If a party wants to file a motion so they can ask the judge to do something for them, the party must file three documents – (1) a Motion; and (2) a Small Claims Note For Motion Docket; and (3) promptly file a separate Small Claims Declaration Of Service after serving each opposing party with the first two documents. These three forms and instructions are available on the District Court website in the “SMALL CLAIMS” link.

If you properly follow the procedures outlined on the Small Claims Note For Motion Docket form, the clerk will schedule a motion hearing date so the parties can appear before the judge to discuss your motion.

WHAT IF I AM UNAVAILABLE FOR A COURT DATE? District Court permits a party who is located anywhere and has access to the internet to appear for any small claims matter by a Zoom Virtual Hearing. This has greatly reduced the difficulty in appearing on small claims matters because no one is required to personally appear in the courthouse to have their small claims matter heard by the judge.

Sometimes though, a party is still is not available on a date scheduled for a small claims matter. If a party wants to ask the judge to continue a scheduled court date, the party must promptly file a Small Claims Motion To Continue. See “How Do I File A Motion?” above for the process you must follow to schedule a hearing on your motion to continue the scheduled court date to another date.

A motion to continue must be scheduled for a hearing before the scheduled court date. All parties must appear for the motion to continue.

Unless there is a court order prohibiting contact, instead of filing a motion to continue you could contact all opposing parties to see if they will agree to continue the scheduled court date. If all parties agree to the continuance, you should email the Court (districtcourt@kitsap.gov) and all other parties letting the Court know the new court date all the parties prefer.

If all parties agree to continue the scheduled court date, no hearing will be scheduled by the Court on the motion to continue. Instead, the judge without a hearing will grant the motion to continue and cancel the scheduled court date. The clerk will notify all parties of the new court date.

Small claims mandatory pretrial mediation hearings are scheduled on Wednesdays at 8:30 AM. Small claims motions and trials are scheduled on Wednesdays at 1:30 PM.

MANDATORY PRETRIAL MEDIATION ZOOM VIRTUAL HEARING – Because it is important to use judicial resources wisely, you are encouraged to try to settle your case before it goes to trial. Accordingly, District Court requires all small claims parties to appear for a mandatory pretrial mediation Zoom virtual hearing before the court will schedule a trial date.

All witness declarations and exhibits as discussed in the link “*Guide To Representing Yourself*” must be exchanged between the parties at least 7 days prior to the pretrial mediation hearing date.

You do not need your witnesses present at the pretrial hearing.

Attendance by Zoom at the pretrial mediation hearing is mandatory. Click on the link “*Zoom Virtual Hearing Information*” to assist you in attending your pretrial mediation hearing via Zoom.

If it is impossible for you to appear by Zoom, you must immediately notify District Court. In-person attendance in the courtroom for the pretrial mediation hearing is not permitted unless a party receives permission from the judge prior to the pretrial mediation hearing date.

If you want to ask for permission to appear in-person in a courtroom rather than by Zoom, please send an email explaining why to District Court (districtcourt@kitsap.gov) at least 7 days before your pretrial mediation hearing date. You will be notified by the clerk of the judge’s decision.

A representative from Kitsap Dispute Resolution Center will call the small claims pretrial mediation calendar to determine which parties are present. If all parties to a case are present, the parties will be

instructed to remove themselves from the District Court Zoom room and enter the Dispute Resolution Center Zoom room to begin mediation.

Trained mediators from the Dispute Resolution Center will meet with the parties to facilitate a settlement. Most small claims cases are resolved through a mutually agreed upon resolution of the dispute.

A trial date will be scheduled if both sides attend the pretrial mediation hearing but are unsuccessful in reaching a resolution through the Dispute Resolution Center.

If only one party appears at the pretrial mediation hearing, the judge will discuss the case with that party. See the pages below for information about a “default” judgment and dismissal of claims when one party appears but the other party does not appear.

WHAT IF WE SETTLE BEFORE THE PRETRIAL MEDIATION HEARING OR TRIAL? If you settle the dispute before the pretrial mediation hearing or trial, you must inform the court so the hearing or trial 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 or trial. If you do not receive your money by the time of the continued hearing, proceed with the case in court. If you drop the small claims case or counterclaim, the filing fee and service costs are not returned.

MAY I ATTEMPT TO MEDIATE BEFORE THE PRETRIAL MEDIATION HEARING? Yes. If all parties would like to attempt to mediate their dispute, they do not need to wait for the small claims pretrial mediation hearing to do so. For more information, please see the Kitsap Dispute Resolution Center website at www.kitsapdrc.org/.

IS THERE A FEE TO MEDIATE A SMALL CLAIMS CASE? No. The small claims filing fee includes \$15 for funding dispute resolution center small claims services. RCW 7.75.035.

WHAT IF WE SETTLED BUT I HAVE NOT BEEN PAID? If you reached a settlement but the opposing party failed to comply with the agreement, you will need to prepare a Small Claims Motion To Enforce Settlement Agreement and a Small Claims Note For Motion Docket. These two documents need to be filed with the Court.

Then you need to arrange for service of these two documents on the opposing party and prepare a Small Claims Declaration Of Service when service is complete. You need to promptly file the Small Claims Declaration Of Service with the Court.

A hearing will then be scheduled by the clerk who will provide a Notice Of Court Date to the parties. Make sure to appear at the hearing.

The judge will make a decision whether or not the settlement agreement was satisfied. If the judge decides the agreement was not satisfied, the judge will enter a judgment for you on your claim.

WHEN A PLAINTIFF FAILS TO APPEAR – If the plaintiff fails to appear for the small claims pretrial mediation hearing or trial, the defendant may request that plaintiff’s small claims case be dismissed and a default judgment be entered against the plaintiff on any counterclaim filed by the defendant.

WHEN A DEFENDANT FAILS TO APPEAR – If the defendant fails to appear for the small claims pretrial mediation hearing or trial, the plaintiff may request that a default judgment be entered against the defendant and any counterclaim filed by the defendant be dismissed.

DEFAULT JUDGMENT REQUIREMENTS – The judge may enter a “default” judgment when a claim or counterclaim is served on an opposing party but the opposing party fails to appear for a pretrial mediation hearing or trial. Prior to entry of a default judgment, the moving party must be present and provide to the judge each of the following –

- (1) Proof of proper service of the Small Claims Notice of Claim or Small Claims Counterclaim and Notice Of Court Date; and
- (2) A factual basis supporting the claim (usually through brief testimony by the party seeking a default judgment, and perhaps exhibits and/or witness declarations); and
- (3) Plaintiff’s proof of compliance with the Servicemembers Civil Relief Act. Proof of compliance is typically accomplished by the plaintiff filing a Small Claims Declaration Of Military Status with the Court (at least 7 days before the hearing date).

TRIAL INFORMATION – For information about preparing for your trial and what will happen at the trial, please see the link “*Guide To Representing Yourself*” on the District Court website.

WHAT HAPPENS AFTER THE JUDGE MAKES A DECISION? After the judge hears from both sides during trial, the court will issue a judgment or dismiss the case.

If the plaintiff is successful, the judge will order the defendant to pay a specific amount of money which will also include the costs the plaintiff spent to bring the case including the filing fee and service costs. The judge may also include interest on the amount owed if permitted by law and a party requests interest. The same process occurs if a defendant is successful on their Counterclaim.

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 at no additional cost.

If the plaintiff is unsuccessful, the judge will dismiss the case. If a defendant is unsuccessful on their Counterclaim, the judge will dismiss the Counterclaim.

HOW DO I COLLECT MY MONEY IF I AM NOT PAID? A money judgment is a judicial determination of how much money is owed by the judgment debtor to the prevailing party. A judgment entered in Small Claims Court is certified as a District Court civil judgment.

If no appeal is taken and the judgment is not paid within 30 days of entry of the judgment, the prevailing party may seek to enforce the judgment. This enables you to proceed with various methods of collection

such as – (1) garnishing the judgment debtor’s wages or bank accounts; and/or (2) seeking to obtain personal property owned by the judgment debtor such as vehicles, boats or other property.

Remember, court personnel cannot give legal advice so you may need the assistance of an attorney or collection agency to assist you in collecting your judgment. If the judgment debtor fails to pay, the judge may increase the amount of the judgment to cover the costs of enforcing the judgment.

Although an attorney may not represent either party in Small Claims Court, the prevailing party may be entitled to reasonable attorney fees if an attorney has been consulted to collect the judgment as well as any other costs incurred to collect the judgment.

DO I HAVE TO DO ANYTHING IF I WIN AND THE JUDGMENT IS PAID IN FULL? Yes. When a small claims judgment is paid in full, it is the obligation of the judgment creditor (the successful party) to notify the Court so that court records will show the judgment was paid.

Upon full payment of a small claims judgment, the prevailing party must immediately file a Small Claims Satisfaction Of Judgment with District Court and provide a copy to all opposing parties. RCW 4.56.100.

CAN I APPEAL IF I LOSE? Yes. For information about the process to appeal if you lose your small claims case, please see the “**APPEALS**” link on the District Court website.

HOW DO I PAY IF I LOSE? Remember, court personnel cannot give legal advice so you may need the assistance of 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 pay a judgment against you without the assistance of your own attorney, the following information may be useful –

- **Option One – Pay In Person.** If you feel comfortable doing so and a court order does not prohibit contact, you may exchange your personal or certified check or money order in person with the prevailing party. If a cash payment is made, make sure to get a receipt dated and signed by the successful party.

At the same time, have the prevailing party complete and sign the Small Claims Satisfaction Of Judgment form and keep the original. Then file the Small Claims Satisfaction Of Judgment.

Save your original cancelled check, proof of money order, certified check, or cash receipt in the event full payment is later challenged.

- **Option Two – Pay By Mail.** Unless there is a court order prohibiting contact, you may send your personal or certified check or money order to the prevailing party via the US mail. Certified mail with a return receipt is strongly encouraged, but not required. Do not send cash through the mail.

Enclose a Small Claims Satisfaction Of Judgment form with your payment. Also enclose a stamped self-addressed envelope so the prevailing party can return the signed Small Claims

Satisfaction Of Judgment form to you. Immediately upon receipt, file the Small Claims Satisfaction Of Judgment form with the Court.

Save your original cancelled check or proof of money order or certified check in the event full payment is later challenged.

I PAID BUT THE PREVAILING PARTY WILL NOT SIGN A SMALL CLAIMS SATISFACTION OF

JUDGMENT – If the prevailing party refuses or neglects to file a signed Small Claims Satisfaction Of Judgment after you have paid the judgment in full, you may ask the judge to enter a Small Claims Order Of Satisfaction Of Judgment. You will need the following –

- A copy of the judgment or the date and amount of the judgment; and
- Sufficient proof that you have in fact paid the judgment in full. Evidence to present to the judge proving you paid the judgment in full may include – (1) the original check returned from the bank and stamped by the bank as negotiated by the prevailing party; (2) a copy of the certified check or money order with verification that it has been negotiated by the prevailing party; (3) the original receipt dated and signed by the prevailing party; and/or (4) the original document dated and signed by the plaintiff confirming “paid in full.”

You will need to prepare a Small Claims Motion For Entry Of Satisfaction Of Judgment and a Small Claims Note For Motion Docket and file these documents with the court.

Then you need to arrange for service of these two documents on the prevailing party and prepare a separate Small Claims Declaration Of Service for each opposing party when service is complete. You need to then promptly file the Small Claims Declaration Of Service with the Court.

A hearing will be scheduled by the clerk. Make sure to appear at the hearing.

The judge will make a decision about whether or not to enter a satisfaction of judgment by court order. There is no guarantee the judge will grant your motion because only the judge will decide if you have presented sufficient proof the judgment was in fact paid in full. Please consult with an attorney if you have questions.

Under some circumstances you may also need to get a certified copy of the Small Claims Satisfaction Of Judgment from District Court and record it with the Superior Court and/or the County Auditor.