

LEGAL CORNER

By: Jay A. Goldstein, OMB General Counsel

Small Claims Court

Small Claims Court is an informal court created within each district court by the legislature to provide speedy, inexpensive and conclusive justice for low dollar claims.

Jurisdiction and Venue: where defendant lives; \$4000 maximum

Small claims departments have non-exclusive jurisdiction over claims for recovery of money if the total amount claimed does not exceed \$4000. The plaintiff must file in the district where the defendant resides, or, in the case of a traffic accident or similar incident, in the district where the accident occurred.

Filing a Claim

The plaintiff may obtain from the court a CLAIM/SUMMONS/ANSWER form. The plaintiff must sign the form in the presence of the District Court Clerk and pay a filing fee (\$21 in Thurston County). The Clerk then provides to the plaintiff a trial date, a copy of the form for the plaintiff's record, and two copies for the defendant. It is the plaintiff's responsibility to accurately identify the defendant and to designate the proper addresses of the defendant. The plaintiff must also serve the claim form on the defendant. The defendant may counterclaim but must do so immediately upon the receipt of the plaintiff's claims.

Service: Not by a party

The plaintiff cannot personally serve the claim form. However, for a modest fee the plaintiff can have the sheriff's office or a process server accomplish the service. Otherwise, the plaintiff can provide service by anyone of legal age who is not connected with the case either as a witness or a party, or by registered or certified mail with a return receipt requested. With mail service, the plaintiff must file the postal receipt bearing the defendant's signature with the court. After service (other than mail service) is complete, the plaintiff must file an affidavit of service (signed by the server before a notary public) with the court. The affidavit must state the date of service, upon whom served, and the name of the server.

Trial: No lawyers allowed

No attorneys are allowed to represent either side except in certain cases where advance permission is obtained from the judge. If the defendant fails to appear for trial, the court will grant the plaintiff a judgment for the amount of the claim proved in court, provided that the plaintiff can show proof of service. When both parties are present, either party can request the court to order a payment plan after the judgment is granted. After the prevailing party receives payment, the creditor must notify the court in writing that the judgment has been satisfied. If the losing party fails to pay the judgment within twenty days, and if the prevailing party so notifies,

the judgment shall be increased by an amount sufficient to cover the costs of collecting the judgment, plus \$15.

Collection of Judgment: the Hammer

The Small Claims Court does not collect the judgment for the prevailing party. Instead, if no appeal is taken and the judgment is not paid within 20 days of the court set deadline, the prevailing party may request that the judgment be entered in the civil docket of the district court.

Upon notification, the trial judge shall certify the judgment in the form prescribed by RCW 12.40.110. The clerk then must enter the judgment transcript on the judgment docket of the district court. Garnishment, execution, and other process on execution on the judgment may issue, as in other judgments of district courts. Because district courts may not place a lien on real property, the prevailing party may file the judgment transcript on the judgment lien docket in the superior court. Then the creditor can record the lien, and the judgment lien will attach to any real property owned by the judgment debtor in the county. If the debtor owns or seeks to own real property in another county, the creditor can record the lien in additional counties.

Appeals

No appeal is permitted where the amount claimed is less than \$100. Nor is an appeal permitted when the amount claimed is less than \$1,000. Otherwise, the notice of appeal and appeal bond must be filed within twenty days after judgment is rendered.