

# How to File a Small Claims Case

Third Judicial District, Salem, Oregon

## **1. Forms and Fees.**

Forms to file a small claims claim are available at the information window on the first floor of the Marion County Courthouse. Type or print legibly.

Plaintiff is the person filing the suit.

Defendant is the person being sued.

If the claim is \$1,500 or less, the filing fee is \$51.50. If the claim is more than \$1,500, the filing fee is \$98.50. Make your check payable to the **State of Oregon**. The maximum claim in Small Claims is \$5,000.

## **2 Serving the Other Party with the Claim.**

The Claim must be served on the other party or parties before the court can take any action. The sheriff's process service fee is \$28.00 for up to two people at the same address. Make your check payable to the Marion County Sheriff. You may arrange to have a process server or another individual serve the claim on the defendant. The process fee may vary depending on who you choose.

The Claim may be served by:

- Sheriff
- Private Process Server
- Certified mail (with delivery to defendant only with return receipt; or if a business is involved, to the owner or registered agent. See Section 3 below.)
- A competent person who is not a party to the case, is 18 years or older, a resident of Oregon (or of the state where service is made), and is not an officer, director, or employee of, nor attorney for any party, except as allowed by law.

A Certificate of Service and/or the Postal Return Receipt (green card) must be filed with the court by the person who serves the Defendant.

## **3. Businesses and Corporations.**

If a business is involved, the owner's business name is required. If a corporation is involved, the name and address of the corporation's registered agent is required. If unknown, contact the Corporation Division in Salem at (503) 986-2200.

#### **4. Court Process After Defendant is Served.**

You will be notified by mail if the Marion County Sheriff's Office serves the Claim. The Defendant has 14 days from the date of service to file an answer with the court or pay the claim.

If the Defendant pays the claim, payment should be made directly to you. Although you are entitled to receive the amount of the claim plus filing and service fees, you may agree to settle the claim for less. If you wish to have the case dismissed, please submit a written statement to the court requesting dismissal. Monies paid directly to you should be reported to the Court.

If the Defendant demands a hearing or files a counterclaim, a court appearance date will be set and you will receive a notice by mail of the date and time to appear. Notify the court immediately if you have a scheduling conflict.

The Defendant may demand a jury trial if the claim is over \$750. If such a request is filed, the case may be referred to arbitration. You may be required to pay a higher filing fee and participate in arbitration prior to the a jury trial. Arbitration does not involve a jury and will cost each side up to an additional \$250.00. If either party is not satisfied with the arbitrator's decision, he or she may request a trial if an additional \$150 is deposited with the Court.

You may request the court enter judgment if the Defendant fails to file an answer within the required 14 days. On the **15th** day after the Defendant has been served, you may apply to the Court for a default judgment. A form is available from the court for this purpose.

***If the defendant does not file an answer and you do not request a judgment within 90 days from the date of filing the small claim, the case will be dismissed pursuant to court rules.***

#### **5. Collecting Judgment.**

Once the court has entered a judgment in your favor, you are entitled to payment. If the defendant does not voluntarily agree to pay you, there are other options available to force payment, including:

- garnish wages (you will need the employer's name and address),
- garnish bank accounts (you will need the bank name and address),
- attach personal property (contact the sheriff's office for more information), and
- DMV may suspend the Defendant's driver's license if the judgment is a result of an automobile accident and at least 60 days has passed since the judgment was entered.

For more information about collecting judgments, visit the law library on the fifth floor of the courthouse, or contact an attorney.