

SMALL CLAIMS COUNTERCLAIM PACKET

WHAT IS IN YOUR PACKET?

1. Small Claims Instructions Brochure
 - Gives you description/instructions about the small claims process
2. Small Claims Notice of Counterclaim
 - Needs to be filled out completely – A complete name and address is required for Plaintiff(s) and Defendant(s)
3. Certificate of Service
 - You are not allowed to serve the notice. You must arrange for service. This is required to be filled out and filed before the court hearing
4. Exhibit Log
 - You will bring your exhibits to Court the day of your hearing. Please complete the Exhibit Log and prepare three duplicates of your exhibits

WHAT IS THE FILING FEE?

- \$35.00. Payable by cash, check, cashier's check, credit or debit card – If you use a debit/credit card there will be a service charge of \$2.99.

SERVING THE NOTICE OF COUNTERCLAIM

- The Defendant must arrange for **service** of this Notice of Small Claim Counterclaim on the Plaintiff and file the completed **SMALL CLAIMS DECLARATION OF SERVICE** form with the Court **prior** to the hearing.
- **The Defendant cannot serve or mail the documents and cannot complete the Certificate of Service.** RCW 12.40.040, RCW 4.28.080.
- The Notice of Counterclaim **must be served** to the Plaintiff not less than **10 days before the trial date**.
 - WHAT IF THE TRIAL DATE IS LESS THAN 10 DAYS FROM FILING THE COUNTERCLAIM?
 - You may file a Motion/Order for Continuance at the Clerks' office
 - You may show up at the Trial Date after serving the Plaintiff and inform the Judge of when you served the Plaintiff.

HOW MANY SETS OF EXHIBITS ARE REQUIRED?

THREE (3) exact identical complete sets of exhibits with **pages numbered 1 to 20**. (1. Court Copy; 2. Opposing Party Copy; 3. Your Copy) **DO NOT WAIT** until the hearing to **ORGANIZE your exhibits**. [Copies may be obtained through the Clerk's Office at a cost of **50 cents per page**]

LEGAL ADVICE

Staff and the Judge cannot give you legal advice. For more information on Small Claims filing and processes you must do your own research or consult a lawyer. See also, RCW 12.40, RCW 3.66, RCW 4.16., and RCW 36.18.

Additional information is available at www.spokanecounty.org/2847/Civil-and--Small-Claims-Cases.



An Introduction to SMALL CLAIMS COURT

In the District Court of the State of Washington For the County of Spokane

Disclaimer: This brochure is intended to be a general statement of small claims procedure and not legal advice. For more detailed information, please consult applicable provisions of the Revised Code of Washington (RCW) Chapters 3.66, 4.16, 4.28, 12.40, and the Civil Rules for Courts of Limited Jurisdiction, Rule 5 (CRLJ 5). RCWs and court rules can be found at libraries and the following websites: www.leg.wa.gov (for RCWs) and www.courts.wa.gov (for court rules and sample forms). Court contact information can also be found at www.courts.wa.gov.

Who Can Sue and Be Sued? Any “natural person”; meaning a human being, may bring a small claims suit for *recovery of money only* for an amount up to **\$10,000**. Any business, partnership, corporation or DBA (doing business as) may bring a small claims suit for *recovery of money only* for an amount up to **\$5,000**.

In general, the claim must be filed in the district court of the county in which the defendant(s) reside. Exceptions and specific rules can be found at RCW 3.66.040. The state of Washington may not be sued in Small Claims Court. Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a small claims suit unless the judge grants permission.

How Do I Get Started? First, you need to prepare a Notice of Small Claim form that is provided by the district court clerk. You must sign the Notice in the presence of the clerk, unless otherwise instructed by the court. The clerk will enter a hearing date, trial date or response date on the Notice form. As the plaintiff (person bringing the suit), it is your responsibility to accurately identify the defendant, provide a proper address and if possible, a phone number, and to state the claim. The clerk may assist you with forms and general information about the process.

The clerk is not allowed to give legal advice.

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? You must pay the court clerk a filing fee at the time the suit is filed. The filing fee will be \$35 per RCW 12.40.020. You may have some additional fees for the sheriff or process server to serve the Notice of Small Claim on the defendant, or you may pay to mail the Notice to the defendant registered or certified, return receipt requested. If you win your case, you are entitled to recover your costs of filing and service fees.

Serving the Notice: Once you have completed the Notice, it must be “served” or presented to the defendant. Per RCW 12.40.040. No other legal document or process is to be served with the Notice of claim.” Service of the Notice can be accomplished by having a **disinterested party (other than the person who filed the claim)** give a copy of the Notice to the defendant personally or by leaving it at the defendant’s usual residence with a person who is responsible enough to give it to the defendant, as long as service is done by:

1. The sheriff or a deputy of the county in which the court is located.
2. A process server (found online or in the yellow pages)
3. Any person over the age of 18 who is competent to be a witness and is not a party (including a process server); or
4. The Notice can be mailed to the defendant by registered or certified mail if a return receipt with the signature of the party being served is filed with the court. You cannot personally serve the Notice on the defendant.

Service on a Business: This will depend on how they are licensed.

- **Sole Proprietorship** - can only be served on the owner.
- **Partnerships** - require service on each partner.
- **Corporations** – **You must have the name of the** Registered Agent, Corporate President, Office Manager, Managing Agent or their Secretary/Cashier. Information regarding how a business is licensed may be accessed through the Secretary of State at (360) 725-0377 or www.secstate.wa.gov/corps

Service on the defendant must be complete at least ten (10) calendar days before the first hearing. A return of service form from the **disinterested party**, or mail return receipt with the defendant's signature, must be filed **before** the time of the first hearing. See RCW 12.40.040 and CRLJ 4 for more detailed information.

What If We Settle Before the Trial? In most cases, neither party is one hundred percent right or wrong. You are encouraged to try to settle your case before trial. If you settle the dispute before the hearing, you must inform the court so the hearing 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. If you do not receive your money by the time of the continued hearing, proceed with the case in court. *If you drop the suit, the filing fee and service costs are not returned.*

Preparing for the Trial: Whether you are the plaintiff or the defendant, you can help yourself by being well prepared. To prepare for the trial, collect all papers, photographs, receipts, estimates, canceled checks or other documents that concern the case. 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 to organize your thoughts and make a clear presentation of your story to the judge. It is also a good idea to sit through a small claims court session before the date of your hearing. This will give you first-hand information about the way small claim cases are heard.

How do I prepare my Exhibits? Evidence presented in court will be held for the 30-day appeal period. If the case is not appealed, exhibits can be picked up between 31-60 days; after 60 days, they will be destroyed. Please follow these guidelines when preparing your exhibits for trial:

- Use standard 8.5 x 11 paper
- Provide copies for 1) Yourself 2) Opposing party. **The originals will be submitted to the Court for the Judge.**
- Exhibits must be labeled and should not exceed 20 pages

What Happens at the Trial? When you arrive at the court, report to the courtroom in which your case has been assigned. Do not be late. When your case is called, come forward to the counsel table and the judge will swear in all the parties and witnesses. Don't be nervous—remember that a trial in small claims court is informal. The judge will ask the plaintiff to give his or her side first, and then will ask the defendant for his or her explanation. Be brief and stick to the facts. The judge may interrupt you with questions, which you should answer honestly and to the best of your knowledge.

Be polite, not just to the judge, but also to your opponent. Do not interrupt. 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 enter a judgment with his or her decision.

What If My Opponent Does Not Appear for Trial? If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim proven in court, plus costs—provided the plaintiff can show proof of service. If the plaintiff fails to appear, the claim is dismissed; however, generally the court will permit the plaintiff to start over, if good cause for the non-appearance is shown.

How Do I Collect My Money? A money judgment in your favor does not necessarily mean that the money will be paid. *The Small Claims Court does not collect the judgment for you.* Upon entry of the Small Claims Judgement, the case will be elevated to a Civil Case Number. Per RCW 12.40.105 the prevailing party will be provided with a certified copy of the judgment which may be filed with Superior Court for entry on the lien docket. Please contact Superior Court for additional information. Remember, the clerks cannot give you legal advice so you may need the assistance of an attorney or collection agency, whose fees may be paid by the debtor.

Can You Appeal a Case If You Lose? A party who appeals a judgment is required to follow the procedures set out in chapter RCW 12.36.

Time to appeal: Notice of Appeal must be filed in District Court within 30 days of final disposition, and a copy of the Notice of Appeal must be served on all other parties or their attorney of record. RCW 12.36

Filing Fees: The filing fee is **\$270.00**. (*\$230 for the Superior Court Fee and \$40 for the cost of the preparation.*) This fee must be paid by cash, money order, cashier's check or attorney trust account check. **NO PERSONAL CHECKS WILL BE ACCEPTED.**

If the case originated as a Small Claims Judgment: A bond must be posted in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater (RCW 12.36.020) so that the appellant will be able to pay any judgment, including costs, as may be rendered on appeal. No bond is required if the appellant is a county, city, town or school district. The bond must be cash, cashier's check, money order or surety bond.

When the appeal and bond are transferred to Superior Court, the appellant (person appealing the decision) may request that the Superior Court suspend enforcement of the judgment in the District Court until after the appeal is heard. Within 14 days of filing the Notice of Appeal, the District Court clerk will transmit the court record to the Superior Court clerk. All further proceedings will be in the Superior Court.

Failure to complete the above process will result in a Notice to Superior Court notifying it that the appellate process is unperfected and incomplete, and that the court of limited jurisdiction is closing the file.

Once the judgment has been appealed to the superior court, then enforcement of any judgments entered in the case will be handled in superior court in the same manner as any other superior court judgment.

Prepared by: Administrative Office of the Courts, PO Box 41170 Olympia, WA 98504-1170, (360) 753-3365

Spokane County District Court Civil/Small Claims

P.O. Box 2352

721 N. Jefferson, Spokane WA 99260

P: (509) 477-4770 opt. 8 F: (509) 477-6387

Office Hours: Monday – Friday 8:30 a.m. – 4:00 p.m. (Closed 12 – 1 pm)

New filings accepted until 4:00 p.m.

Updated July 2019

IN THE DISTRICT COURT OF SPOKANE COUNTY WASHINGTON
SMALL CLAIMS NOTICE OF COUNTERCLAIM

Small Claim Case #: _____

PLAINTIFF'S NAME (1) - <i>full/legal name</i>	PLAINTIFF'S NAME (2) - <i>full/legal name</i>
Doing Business As – <i>Company Name if you are a business</i>	Doing Business As – <i>Company Name if you are a business</i>
ADDRESS	ADDRESS
CITY STATE ZIP	CITY STATE ZIP
EMAIL	EMAIL
CELL/HOME PHONE NO WORK PHONE NO	CELL/HOME PHONE NO WORK PHONE NO

Vs

DEFENDANT'S NAME (1) - <i>full/legal name</i>	DEFENDANT'S NAME (2) - <i>full/legal name</i>
Doing Business As – <i>Company Name if you are a business</i>	Doing Business As – <i>Company Name if you are a business</i>
ADDRESS	ADDRESS
CITY STATE ZIP	CITY STATE ZIP
EMAIL	EMAIL
CELL/HOME PHONE NO WORK PHONE NO	CELL/HOME PHONE NO WORK PHONE NO

TO THE PLAINTIFF(S): YOU ARE HEREBY NOTIFIED that the above-named Defendant has filed a claim for money damages against you amounting to \$_____ in this Court; the reasons for which are stated below. *(Don't include the cost to file and serve. YOU CANNOT INCREASE THIS AMOUNT AT TRIAL.)*

TO THE PARTIES: YOU ARE HEREBY NOTIFIED to appear for TRIAL on: _____, at _____ a.m./p.m.

- ☐ Spokane District Courtroom 203, **BROADWAY CENTER BLDG.**, 721 N. Jefferson, Spokane, WA
- ☐ Spokane District Courtroom **VALLEY COURT**, 12710 E. Sprague, Spokane Valley, WA

CLERK OF COURT: _____

MEDIATION ASSISTANCE

Please view the Mediation video at www.youtube.com/watch?v=kMCsoHP8a8 . Once your Claim has been filed with the Court, you may be contacted by a law student from Gonzaga University School of Law when the school is in session regarding the possible mediation of this claim.

DO YOU REQUIRE AN INTERPRETER FOR YOUR HEARING?

Defendant: ☐ Yes Language? _____
☐ No

Plaintiff: Please call (509) 477-4770, email DCCivil@spokanecounty.org or visit the Clerks' office at 721 N. Jefferson, Suite 204, Spokane, to request an interpreter.

IF YOU REQUIRE DISABILITY ACCOMMODATIONS

District Court complies with the Americans Disability Act. To request accommodations please contact the Court Operations Manager at (509) 477-2903, email DCJOM@spokanecounty.org, or visit the Clerks' office at 721 N. Jefferson, Suite 204, Spokane, WA 99206.

SERVING THE NOTICE OF CLAIM

- The Defendant must arrange for **service** of this Notice of Small Claim Counterclaim on the Plaintiff and file the completed **SMALL CLAIMS DECLARATION OF SERVICE** form with the Court **prior** to the hearing.
- ***The Defendant cannot personally serve or mail the documents and cannot complete the Declaration of Service. RCW 12.40.040, RCW 4.28.080.***
- The Notice of Claim Counterclaim **must be served** to the Plaintiff not less than **10 days before the trial date**.

WHAT IF THE DEFENDANT/PLAINTIFF DOES NOT APPEAR AT THE HEARING?

If the Defendant is properly served with the claim and does not appear at the hearing, you can ask the Court to issue a default judgment. Plaintiff must appear for a judgment to be entered. If Plaintiff fails to appear, the claim may be dismissed. If the claim is settled prior to the hearing date, the parties must notify the court immediately in writing.

DEFENDANT'S STATEMENT OF CLAIM

☐ I am an **individual** (not a business) and the Defendant in this matter. Individuals are limited to suing for \$10,000 in Small Claims Court. If you sue for more than \$10,000 the case will be dismissed. RCW 12.40.010.

☐ I am a **business** and the Plaintiff in this matter. ***Businesses, Corporations, partnerships, HOAs, and other legal businesses are limited to suing for \$5,000 in Small Claims Court. If you are a business suing for more than \$5,000 your case will be dismissed. RCW 12.40.010.***

The REASON(S) I Claim the Plaintiff Owes Me Money:

☐ Landlord Claim against Tenant	☐ Property Damage (<i>not vehicle</i>)	☐ Vehicle was Not Properly Repaired
☐ Tenant Claim against Landlord	☐ Item Purchased Does Not Work	☐ Vehicle Not Repaired/Repaired Not Paid
☐ Services Not Properly Performed	☐ Item Not As Advertised/Warranted	☐ Vehicle was Damaged / in Accident
☐ Services Performed but Not Paid	☐ Business Transaction Issue	☐ Purchase/Sale of Vehicle
☐ Faulty Workmanship	☐ Wages Not Paid	☐ Loan was Not Re-Paid
☐ Breach of Contract	☐ I Was Injured (<i>personal injury</i>)	☐ Other: (<i>be specific</i>)

Please give a brief explanation of your Claim:

This image shows a single page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

INSTRUCTIONS FOR YOUR TRIAL

WHAT IS AN EXHIBIT? Exhibits are document(s) you present to the Court to help prove your side of the case. Exhibits can be written statements, email/text messages, documents, photographs, and videos. Please read and follow these instructions carefully to make sure that your exhibits are admissible at trial.

1. **Exhibits Are Limited to 20 Single-sided Printed Pages.** The Court must have printed copies of all exhibits to maintain a full record of the trial. This means that photographs, text messages, and other evidence must be printed out and copies given to the Court and the Opposing Party at the time of trial. Contracts, including rental/lease agreements do not count towards the 20-page limit.
2. **All Written Testimony or Statements Must be Signed Under Oath.** All testimony, whether in court or outside of court, must be under oath to be admissible at trial. Written statements must be signed by the person making the statement, under the following attestation: "These statements are made under penalty of perjury under the Laws of the State of Washington."
3. **Video Requirements.** The Court prefers you submit printed screenshots from a video as exhibits rather than submitting a video, to make things simpler at trial. If a video is necessary to prove your case, it must be **edited** to about one minute in length with a Media USB log describing the one-minute video. You must provide copies of the USB and the log to the Court and Opposing Party at the trial. **YOU ARE NOT PERMITTED TO PRESENT VIDEOS OR AUDIO FILES AS EVIDENCE SIMPLY BY DISPLAYING THEM ON YOUR CELL PHONE OR COMPUTER.**

HOW SHOULD I ORGANIZE MY EXHIBITS? Number your Exhibit packet pages 1 to 20. *****DO NOT STAPLE or use a folder/binder for exhibits***** **Confidential Information:** You must **redact (black out) any confidential information** (i.e., bank account, social security, and driver's license numbers). Filed documents are PUBLIC RECORDS. All exhibits must be on **8.5 x 11 inch paper**.

HOW MANY SETS OF EXHIBITS ARE REQUIRED? **THREE (3) exact identical complete sets** of exhibits with **pages numbered 1 to 20**. (1. Court Copy; 2. Opposing Party Copy; 3. Your Copy) **DO NOT WAIT until the hearing to ORGANIZE your exhibits.** *[Copies may be obtained through the Clerk's Office at a cost of 50 cents per page]*

HOW MUCH TIME WILL I HAVE TO PRESENT MY CASE? Each side will have a total of about **ten minutes to present your case** so you **must** organize your arguments and exhibits before trial. The hearing and disposition of the actions shall be informal, with the *sole object of dispensing speedy and quick justice between the litigants.*" RCW 12.40.090.

RETRIEVING YOUR EXHIBITS AFTER TRIAL: Exhibits will be held for a **30-day appeal period**. If no appeal is filed, Exhibits can be picked up after 30 days. ***Exhibits not picked up within 60 days after trial WILL BE DESTROYED WITHOUT FURTHER NOTICE***

SETTLEMENT PRIOR TO COURT: If this claim is settled prior to the hearing date, the **PLAINTIFF** must notify the Court and the opposing side immediately in writing so the Court can dismiss the case and cancel the court date. You may email the Court at DCCIVIL@SPOKANECOUNTY.ORG to notify of settlement (you must copy the opposing side on the email to the Court).

LEGAL ADVICE: *Staff and the Judge cannot give you legal advice. For more information on Small Claims filing and processes you must do your own research or consult a lawyer. See also, RCW 12.40, RCW 3.66, RCW 4.16., and RCW 36.18. Additional information is available at www.spokanecounty.org/2847/Civil-and--Small-Claims-Cases.*

IN THE DISTRICT COURT OF SPOKANE COUNTY WASHINGTON

Plaintiff(s),

vs.

Defendant(s).

SMALL CLAIMS NO. _____

CERTIFICATE OF SERVICE

*****THIS DOCUMENT MUST BE FILED WITH
COURT
BEFORE THE HEARING DATE*****

I DECLARE that I am not the Plaintiff, Defendant or a Witness, or Other interested party in this matter. I am over the age of 18 and a resident of the State of Washington. I served the following documents:

- ☐ NOTICE OF SMALL CLAIMS ☐ NOTICE OF SMALL CLAIMS COUNTERCLAIM
☐ NOTICE OF AMENDED SMALL CLAIMS by:

PERSONAL SERVICE RCW 4.28.080(16)

I served the Notice by delivering a true copy to the Defendant, personally in SPOKANE County, State of Washington, as follows:

Name of Defendant/Plaintiff:

Address Where Served:

Date of Service:

SUBSTITUTE SERVICE RCW 4.28.080(16)

I served the Notice by delivering a true copy to the Defendant's usual place of residence in SPOKANE County, State of Washington, and leaving it with a person over 12 years of age residing there, as follows:

Name of Defendant/Plaintiff:

Address Where Served:

Date of Service:

Name of Person Receiving Copy:

SERVICE BY MAIL RCW 12.40.040; RCW 4.28.080(17) *MUST attach both the postal receipt AND the return receipt signed by the defendant* I served the Notice by depositing in the United States Post Office in _____ County, State of _____, a true copy of the Notice enclosed in a sealed envelope having adequate postage and sent Certified Mail, Restricted Delivery, Return Receipt Requested, as follows:

Name of Defendant/Plaintiff:

Address Mailed:

Date Mailed:



SERVICE ON A BUSINESS RCW 4.28.080(9)

I served the Notice by delivering a true copy to the Registered Agent as follows:

Name of Registered Agent:

Address Mailed:

Date Mailed:

Manner Served:

- ☐ Personal Service
- ☐ Service by Mail (**MUST** attach both the postal receipt AND the return receipt signed by the Registered Agent)

I, the undersigned, declare under penalty of perjury that the foregoing is true and correct and that I was at the time of service of the above notice(s) a resident of the State of Washington over the age of 18 years **and not a party to the above-referenced claim.**

Server's Name (Printed)

Server's Signature

Date

Server's Phone No.

Server's Address

City

State

Zip Code

***If there is a Service Fee Cost, please attach the invoice/receipt.*

When completed, return to:
Spokane County District Court
Civil & Small Claims
PO Box 2352
Spokane WA 99210

**SPOKANE COUNTY DISTRICT COURT
STATE OF WASHINGTON**

Case Number: _____

EXHIBIT LOG

☐ Court ☐ Plaintiff(s) ☐ Defendant(s)

HEARING DATE: _____

Plaintiff(s)

v.

Defendant(s)

- This form is used to outline the context of your exhibits for the Judicial Officer.
 - 1 Copy to be provided to Court.
 - 1 Copy to be provided for the opposing side(s).
 - Identify each party on text messages.
 - Identify the situation and date for pictures.
- Each exhibit page is counted towards your allowed 20 pages of supportive materials. (*Contracts/Rental Agreements do not count towards your 20 pages.*)
 - Label your exhibits on the bottom right corner (i.e: A, B, C, etc.)

Exhibit _____ Total Pages _____

☐ Picture ☐ Text Message(s) ☐ Other _____

Description:

Exhibit _____ Total Pages _____

☐ Picture ☐ Text Message(s) ☐ Other _____

Description:

EXHIBIT LOG

Exhibit _____ Total Pages _____

☐ Picture ☐ Text Message(s) ☐ Other _____

Description:

Exhibit _____ Total Pages _____

☐ Picture ☐ Text Message(s) ☐ Other _____

Description:

Exhibit _____ Total Pages _____

☐ Picture ☐ Text Message(s) ☐ Other _____

Description:

(ATTACH SEPARATE PAGE(S) IF NECESSARY, DO NOT WRITE ON THE BACK)

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at _____ (city & state) on _____ (date).

Signature Plaintiff/Defendant

EXHIBIT LOG