

DESCHUTES COUNTY JUSTICE COURT SMALL CLAIM INSTRUCTIONS

To file a Small Claim in Deschutes County Justice Court, defendant must either live in Deschutes County or the action must have occurred in Deschutes County. The claim must be for \$10,000 or less.

The following information describes some of the small claim procedures. The court clerk may answer certain questions about filing procedures, but is prohibited from giving other legal advice. For complete legal procedures:

- call the Oregon State Bar tape library at 1-800-452-4776 (tape #1061) or visit www.osbar.org;
- research the Oregon Revised Statutes, which are available at public libraries or at www.leg.state.or.us/ors; or
- see if Legal Aid (541-385-6944) or the Deschutes County Law Library (541-388-6690) are able to answer questions;
- consult an attorney;

FILLING OUT THE CLAIM AND NOTICE

Plaintiff: The person(s) or company filing the Claim & Notice.

Defendant: The person(s) or company being sued.

Case Heading: All persons must be listed by their proper names, correctly spelled. The case will be entered in the court docket exactly the way you fill in the heading. **List each plaintiff and each defendant separately, using each party's full name.**

- 1) If any person involved in the dispute is under the age of 18 years, in the military service, or is mentally incapacitated, you may want to consult an attorney for assistance.
- 2) If a business is a **corporation**, identify it as such. Identify the registered agent or officer of the corporation and include their address for service. If you need information about the registered agent, call the Corporation Division at (503) 986-2200.
- 3) If a person or business is a **partnership**, list the name of the partnership after the name of each partner. *For example: John P. Doe, dba J & J Auto Shop and Jane M. Smith, dba J & J Auto Shop.*

Party Addresses: If the mailing address is different than the residence or business address for any party, include both.

COURT FEES

The court will not file your claim unless you pay the required filing fee. If you want to recover your filing fee and service fee, be sure to fill in the amounts on the Claim and Notice. You cannot claim the cost of purchasing the court's Small Claim form.

Plaintiff, filing claim	\$35.00
Defendant, denying claim & demanding hearing	\$35.00
Defendant, denying claim and requesting jury trial	\$90.00 + \$125.00 jury fee
Plaintiff, formal complaint after defendant demands jury trial	\$55.00

SERVING THE CLAIM

A separate Claim and Notice must be served on each defendant individually.

Court rules require that a blank Answer in the form prescribed by the Court also be served on each defendant.

How to Serve an Individual: (Please see ORCP Rule 7 for service upon a business.)

- By the Sheriff of the county where defendant lives - the service fee is \$36 for one to two parties at the same address;
- By a private process server listed in Yellow Pages under Process Servers - the service fee is \$40 or more;
- By any competent person 18 years old or older who is a resident of Oregon and who is neither a party to the dispute, nor an officer, director, employee of, or attorney for any party to the dispute;
- By certified mail by RESTRICTED DELIVERY, RETURN RECEIPT REQUESTED. This option may be used only if the amount claimed is less than \$50. You may claim a service fee of \$5. If the defendant served does not personally sign for the delivery, or if the amount is \$50 or more, you must then serve by another method described above.
- **Substitute Service:** If defendant cannot be found personally at his/her usual place of abode, then service may be made by leaving a copy of the Claim and Notice with any person over 14 years of age who resides at defendant's abode. Substitute Service Notices and instructions can be obtained from the court.

DEFENDANT'S ANSWER

If Defendant Does Not File an Answer or Admit the Claim: If defendant does not file an answer within 14 days, plaintiff can fill out a Request for Default Judgment, Non-military/Non-Minor Affidavit and Money Judgment.

If Defendant Admits the Claim: The Court will verify with the Plaintiff that the Claim has been settled. If Plaintiff indicates that the case is not settled, defendant will be required to pay an Answer fee and the case will proceed to Mediation.

If Defendant Denies the Claim and Demands a Hearing: The case will be scheduled for Mediation, and parties will be notified of the date by mail. Hearings are informal, with parties appearing without attorneys.

If Defendant Denies the Claim, Demands a Hearing, and Files a Counterclaim: The counterclaim must involve the same dispute as the plaintiff's claim. The case will be scheduled for Mediation, and parties will be notified of the date by mail.

If the counterclaim exceeds \$10,000:

- Defendant must file a motion to transfer the case to Circuit Court. If the motion for transfer is not made at the time the counterclaim is filed, the counterclaim will be stricken as if not claimed.
- If the case is transferred to Circuit Court, parties must pay that court's filing fee.

If Defendant Denies the Claim and Demands a Jury Trial: The amount of the claim must be more than \$750 for Defendant to select this option. Plaintiff must file a formal complaint in Justice Court and pay an additional filing fee. Plaintiff's complaint will not be limited to the amount stated in the Claim and Notice, although it still cannot exceed the \$10,000 jurisdiction for Oregon Justice Courts.

JUDGMENT

In Oregon, the judgment creditor cannot take collection action on a judgment entered in the Small Claims Department. The judgment must first be transcribed to the Justice Court Civil department, which is accomplished by the creditor paying a \$9 fee to the Court.

Payment or Collection of the Judgment:

- Payments are to be paid directly to the judgment creditor or the creditor's attorney; the court cannot accept payment from a judgment debtor.
- The most common way a small claim judgment is collected is by use of a Writ of Garnishment.
 - Courts do not provide these forms; you may want to contact an attorney.
 - The creditor cannot attach real property unless the judgment is transcribed to Circuit Court, or unless a certified Certificate of Judgment is filed with the county clerk for entry in the county lien records.
- When the judgment is paid in full, the judgment creditor must file a Satisfaction of Judgment with the court. That form is available at the Justice Court office.
 - If the judgment has been paid in full, but the creditor will not file a Satisfaction of Judgment, refer to ORS 18.410. You may need to consult an attorney for assistance.
- A civil judgment is valid for 20 years. If it is not satisfied, it can be renewed for another 20 years.



Deschutes County Justice Court

2444 SW Glacier Place ♦ PO Box 1750 ♦ Redmond, OR 97756 ♦ (541) 617-4758

To Small Claim Plaintiffs:

The following information is intended to clarify the most common procedural errors made by parties in Justice Court small claims cases.

- The fee to file a Claim and Notice in justice court is \$35.00. Please do not submit the circuit court filing fee; we will no longer automatically refund the overage to you.
- Our court's Supplementary Local Rules require that, at the time the Claim and Notice is served, defendant be served a blank Answer in the form prescribed by this court. You may purchase copies of the local rules at our office.
- The 14-day appearance time begins to run from the date substitute service is completed by mailing.
- When you submit a judgment, the creditor and debtor names in the Money Award section must match the plaintiff and defendant names exactly as they appeared in the heading of the Claim and Notice. If they do not match exactly, the court will deny the judgment.
- You may not request a default Money Award in excess of the amount specified in the complaint.
- In justice court, the judgment must be "certified", following a 10-day appeal period, before it can be enforced. The fee to certify the judgment is \$9.
- The fee to issue a writ of garnishment is \$20. The debtor name in the writ must match the debtor name in the Money Award section of the judgment. If they do not match exactly, the court will return the paperwork to you.
- If paperwork is returned to you with the reason stamped in red, that form may not be re-submitted to the court. You must submit a new form without the stamp on it.

If you have any questions, please consult your legal counsel or the Oregon Revised Statutes.

Sincerely,

Charles N. Fadeley
Justice of the Peace

CNF:jls