

CAN YOU APPEAL A CASE IF YOU LOSE?

The party who files a claim or counterclaim cannot appeal unless the amount claimed exceeds \$1,000. No party may appeal a judgment where the amount claimed is less than \$250. If an appeal is taken to the Superior Court, the appealing party is required to follow the procedures set out in Revised Code of Washington (RCW) 12.36. The following steps must be taken *within 30 days* of the entry of the judgment:

1. Prepare a written *Notice of Appeal* and file it with the District Court.
2. Serve a copy of that Notice on the other parties and file an *Acknowledgment or Affidavit of Service* in District Court.
3. Pay to the District Court a \$20 transcript fee and a \$40 appeal preparation processing fee.
4. Deposit at the District Court the \$230 Superior Court filing fee either in cash, money order, or cashier's check payable to the Clerk of the Superior Court. There may be additional fees that you will need to pay as set forth by local court rule.
5. You are also required to post a bond in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater, (cash or surety) at the District Court.

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 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, who will assign a new number and notify the District Court. The District Court clerk will advise the appellant of that number and the appellant must then contact the Chelan County Superior Court for further instructions.

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



Judge Nancy A. Harmon



Judge Roy S. Fore

Disclaimer: This brochure is intended to be a general statement of small claims procedure. For more detailed information, please consult applicable provisions of the Revised Code of Washington (RCW) Chapters 3.66, 4.28, 12.40, and applicable provisions in 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).

An Introduction
to

CHELAN COUNTY DISTRICT COURT SMALL CLAIMS COURT



Prepared by

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If you are now using, or plan to use, the Chelan County District Court Small Claims Division, we hope this pamphlet will be of help in guiding you through the process. We have tried to answer and anticipate your most frequently asked questions.

WHO CAN SUE AND BE SUED?

Any individual, business, partnership, or corporation (with a couple of exceptions) may bring a small claims suit for the *recovery of money only* for an amount up to \$5,000.00. In general, the claim must be filed in the county of the defendant's residence. 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 plaintiff or defendant in a small claims suit unless the judge grants permission.

HOW MUCH DOES IT COST?

There is a \$29.00 filing fee paid by the plaintiff to the court clerk at the time the suit is filed. In addition, you may have some additional fees payable to the Sheriff or process server to have the *Notice of Small Claim* served on the defendant. As an alternative, you may commence the suit by registered or certified, return-receipt mailing. If you win your case, you may be entitled to recover your costs of filing and service fees.

HOW DO I GET STARTED?

First you will prepare a *Notice of Small Claim* form that is provided by the clerk. You are required to sign the Notice in the presence of the clerk, unless otherwise instructed by the court. On the Notice form a hearing date will be entered by the clerk. It is the plaintiff's responsibility to accurately identify the defendant, provide a proper address, and, if possible, provide a phone number.

SERVING THE NOTICE

The clerk will assist you with forms and general information about the process. The clerk is not allowed to give legal advice or attempt to predict how the judge might rule in a given situation. Service of the claim form can be accomplished by any of the following: (1) The Law Enforcement Agency of the respective jurisdiction (Chelan County Sheriff's Office); (2) A process server; (3) Any person of legal age (18) who is not connected with the case either as a witness or as a party; or (4) By mailing the copies to the defendant by registered or certified mail with a return receipt requested. Service by mail is only effective if the defendant signs the return receipt.

The Notice of Small Claim must be served on the defendant not less than ten (10) days before the hearing. If you are having the Sheriff's Office serve the Notice, it is recommended that you take the paperwork to their office immediately to allow sufficient time to perform service in a timely manner.

A return of service, or mail return-receipt bearing the defendant's signature, must be filed at or before the time of the first hearing. *You cannot personally serve the claim.* See RCW Chapters 4.28 and 12.40, and CRLJ 5 for more detailed information.

WHAT IF WE SETTLE?

In many 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 cancelled 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, your filing fee and service costs are not returned.*

PREPARING FOR THE TRIAL

To prepare for the trial, collect all papers, photographs, receipts, estimates, cancelled 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 to make a clear presentation of your story to the judge. **You must make two copies of anything you intend to present in court, one for the court and one for the other party.**

Remember that judges are under pressure to process cases quickly, and you can help yourself by being well prepared. It is also a good idea to sit through a small claim court session before the date of your hearing. This will give you first-hand information about the way small claims cases are heard.

WHAT HAPPENS AT THE TRIAL?

When you arrive at the court, check the calendars outside each courtroom. If you don't find your case, ask a bailiff or clerk for assistance. 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, 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 straight out and to the best of your knowledge.

Be polite and don't interrupt - not just to the judge but also to the other party. 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, the judge will normally announce the decision right then and will sign and hand the parties the judgment.

WHAT IF MY OPPONENT DOES NOT APPEAR FOR TRIAL?

If the defendant fails to appear for trial, the plaintiff may 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.* If no appeal is taken and the judgment is not paid within 30 days or the time set by the court in the payment plan, you may request (in writing) and upon payment of a \$20 fee, that a transcript of the judgment be entered into the civil docket of the court. At that time, you may proceed with a method of collection such as garnishment of wages, bank accounts, and other monies of the defendant or an execution may be issued on cars, boats, or other personal property of the judgment debtor.

Remember, the clerks cannot give you legal advice. You may need the assistance of an attorney or collection agency at this point. The judgment debtor's real property is not subject to collection efforts until the small claims judgment is transcribed to the Superior Court. If you choose to transcribe your judgment to the Superior Court, you will need to submit to the District Court clerk a fee of \$20 and a written request for a transcript of the judgment. After receiving the transcript, you will then need to file the transcript in the Superior Court, which will require payment of an additional fee. Once your judgment is filed in the Superior Court, you cannot also attempt to collect through District Court enforcement proceedings.

When the judgment is paid in full you must send written notice to the District Court that the judgment has been satisfied (paid), or to the Superior Court if the judgment has been transcribed.