



Deschutes County Justice Court

411 SW 9th Street Room 230 ♦ PO Box 1750 ♦ Redmond, OR 97756
www.deschutes.org/court ♦ (541) 617-4758

SMALL CLAIMS INSTRUCTIONS FOR PLAINTIFFS

Small claims are filed to resolve disputes without a lawyer. You may talk to a lawyer at any time for help with your claim, but lawyers are not allowed to represent you without the judge's permission. Court staff CANNOT give legal advice.

Forms such as the Claim and Notice, Defendant(s) Answer, Affidavit of Service, Request for Default Judgment, Satisfaction of Judgment, Motion and Order of Dismissal, Deschutes County Sheriff's Office Request for Service, as well as other documents, can be found on our website:

www.deschutes.org/court.

- The amount claimed (including the value of property) must be \$10,000 or less.
 - ♦ If you are claiming money and property worth *more* than \$10,000, you cannot file a small claim.
- If you are filing the claim, you are the **plaintiff**. The party you are suing is the **defendant**. This does not change throughout the case.
- You must make a good faith effort to collect your claim from the defendant before you file. Your claim must include how you tried to resolve the issue before you filed a claim.
- If any document is returned to you with a red stamp, you may not resubmit that document to the Court. You must submit a new form without the stamp on it.
- Deschutes County Justice Court does not accept electronic, emailed, faxed or copies of documents. You must submit original documents with "wet" (original ink) signatures to be filed with the Court.

STARTING YOUR CASE

- To start a case, fill out the first page of the Claim and Notice form.
 - ♦ **PRINT NEATLY AND CLEARLY!**
 - ♦ If any person involved in the dispute is under 18 years of age, in the military, or is mentally incapacitated, *you are strongly advised to consult an attorney*.
 - ♦ You may name as a defendant:
 - An individual person: be sure the spelling is correct and you use full, formal names – use "John Smith and Angela Smith" instead of "John & Angela Smith". List each defendant separately.
 - An individual "Doing Business As" a different name: you must include both the individual's full, formal name **and** write "dba [the other, or business, name]".
 - A corporation: you must also have the name of the Registered Agent. Call the Oregon Corporation Division at 503.986.2200 or go to www.filinginoregon.com to get this information. Be sure you have the full, proper name and any initials of the corporation, such as "Inc." or "LLC".

- ◆ If the mailing address for any party differs from the residential or business address, include both on the Claim and Notice.
- ◆ If you are asking for monetary damages, you must itemize your actual loss. Do not request a lump sum where itemized costs are involved.
- ◆ If you are requesting the return of property, you must accurately describe the property in detail, as well as the monetary value of the property.
- ◆ Deschutes County Justice Court only accepts *original* documents. We do not accept faxed, emailed, or copies of documents.
- ◆ Leave the second page of the Claim and Notice blank, but submit both pages when you file your Claim.
- ◆ The Claim and Notice MUST be signed in front of a Notary Public.
- ◆ You must include a check or money order, payable to Deschutes County Justice Court, for the filing fee *with* the Claim and Notice. If you do not include the fee, your Claim will not be filed. (*See section regarding fees below.*)
- ◆ You must pay the service fee separately to your process server of choice. DO NOT include the service fee when you file your Claim. (*See “Service” section below.*)
- ◆ If you wish to recover your filing fee and service fees, you must list these on the Claim and Notice.
- ◆ You must include a self-addressed, stamped envelope for the return of your certified copies for service on the defendant(s). The Court will include the appropriate amount of Defendant(s) Answer forms to be served on the Defendant. If you have multiple defendants, please include a larger envelope with sufficient postage.

SERVICE

- As the plaintiff, you must officially notify all defendants that a case has been filed against them. This is known as **service**. Each defendant on the Claim and Notice must be served a certified copy of the Claim and Notice, as well as a Defendant(s) Answer form. There are several different types of service:
 - ◆ Personal Service:
 - By Process Server: Take a certified copy of the Claim and Notice that you received back from the Court, with a Defendant(s) Answer form attached, to your process server of choice. You may choose to have a Sheriff’s Department deputy in the county in which the defendant(s) reside serve the defendant(s), or you may choose to hire a private process server of your choice. Both the Sheriff’s Office and private process servers charge a fee for this service. You will need to pay the fee directly to them. Do not include the fee for service with the Claim and Notice when you file your claim.
 - By a Non-Party: You may have a competent* person 18 years of age or older personally serve the papers to each defendant. The server must be a resident of Oregon, or the state where the defendant is. The server cannot be a party to the case (plaintiff or defendant), or the lawyer for a party. The server cannot be an employee or director/officer of any party. If you have safety concerns, have the Sheriff’s Department serve the defendant.

**competent means a person who can understand, remember, and tell others about an event*

- ◆ **Substituted Service:** The process server may leave the notice at the defendant's residence (where the defendant normally lives) with someone 14 or older who also lives there. The process server must also mail a copy of the papers (with a statement of the date, time, and place that the papers were served) to the defendant(s) by first class mail. Make sure the process server completes a **Certificate of Service**. The date of service is the day the first class mailing is put in the mail.
- ◆ **Office Service:** The process server may leave the papers with someone *in charge of* the defendant's office or normal workplace. The process server must also mail a copy of the papers (with a statement of the date, time, and place that the papers were served) to the respondent by first class mail. Make sure the process server completes a **Certificate of Service**. The date of service is the day the first class mailing is put in the mail.
- ◆ **By Mail:** Send a copy by certified mail, return receipt requested, Restricted Delivery (delivery only to the addressee, the defendant). You may only utilize this option if the amount claimed is \$50 or less. You **MUST** file proof of service with the Court, including the signed green card, date of receipt and the item number, along with a **Certificate of Service by Mail**. If you do not receive the green card back, or if someone other than the defendant signed for it, service by mail was not effective and you must try another type of service. The day of service is the day the recipient/addressee/defendant signs the green receipt card.

PROOF OF SERVICE

A **Certificate of Service** (or Affidavit of Service) must be filed with the Court by whoever serves the defendant, including the date and time of service, the name of the person served, and the name and contact information for the person that served the documents. The Certificates of Service (or Affidavits of Service) are your proof of service. An original Certificate of Service or Affidavit of Service must be filed with the Court for your case to proceed, regardless of method of service.

DEFENDANT'S OPTIONS AFTER BEING SERVED

The Defendant may...

- Admit the claim: The defendant may choose one of the following options on the Defendant(s) Answer form that they file with the Court:
 - ◆ Admit the claim and provide proof to the Court that the claim is paid, including your claimed court fees and costs. Payment should go directly to you and not to the Court. You should then file a notice with the Court to dismiss the claim. (See *Case Conclusion section*.)
 - ◆ Admit the claim, agree to pay the amount claimed plus costs, but state that an agreement on payments cannot be reached. The case will then be scheduled for mediation.
 - ◆ (If the claim is for return of property) Admit the claim and affirm that the disputed property has been returned to you, and enclose proof of such with their Answer.
- Deny the claim: If the defendant does not agree with any part of the claim, they can file the Defendant(s) Answer, within 14 days of service, denying the claim, and:
 - ◆ Demand a hearing: The case will then be scheduled for mediation. All parties will be notified of the date and time by mail. Mediation is informal, with parties appearing without attorneys.

- ◆ Demand a hearing and file a counterclaim: Defendants may also file claims against you called “counterclaims”. Counterclaims must be related to the transaction or event your claim is about. The case will be scheduled for mediation. All parties will be notified of the date and time by mail.
 - If the counterclaim exceeds \$10,000, the 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.
- ◆ Demand a jury trial: The amount of the claim must be for more than \$750 for the defendant to select this option. You must file a formal complaint within 20 days after the Court sends you notice to do so. You must also pay an additional filing fee if the defendant demands a jury trial. (*See section regarding fees below.*) Your complaint will not be limited to the amount stated in the Claim and Notice, but still cannot exceed \$10,000.
- Not respond: If the defendant does not file a response by completing the Defendant(s) Answer and filing it with the court within 14 days from the date of service, you can ask the Court to grant you a default judgment. This means you win because the defendant did not respond.
 - ◆ Complete the Request for Default Judgment form and file with the Court. There is no fee for filing this document.
 - ◆ When completing the Request for Default Judgment, you must also complete the Money Award section. You are the creditor and the defendant is the debtor.
 - ◆ 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.
 - ◆ The party who wins the case is known as the *prevailing party* and may be entitled to a fee called a “prevailing party fee”. These amounts are listed at ORS 20.190. (https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx)
 - ◆ You may request pre- and/or post-judgment annual interest as allowed by law.
 - ◆ Time expended to appear (mediation or trial) is not a recoverable item, nor are attorney’s fees incurred if you sought advice before filing a claim.
 - ◆ The Request for Default Judgment must be notarized.
 - ◆ Do not complete the date above the line for the judge’s signature.
 - ◆ You may not request a Default Judgment for more than the amount specified in the Claim and Notice.
 - ◆ The Court will send you a notice if the Default Judgment was awarded.

CERTIFICATION OF JUDGMENT

- Following a 10-day appeal period after a judgment is awarded, the judgment must be “certified” and transcribed to the Justice Court Civil department, before the judgment creditor (the party who won the case) can take any collection action.
- You may request in writing that the judgment be certified. Payment of the fee (check or money order) must accompany your request. (*See section regarding fees below.*)
- Civil judgments are valid for 10 years. If it is not satisfied, it can be renewed for another 10 years.

COLLECTING AFTER JUDGMENT

You may take the steps necessary to collect funds due to you. The Court CANNOT collect for you. Payments are to be paid directly to the judgment creditor or the creditor's attorney.

- Demand letter: Once you receive notice that your judgment has been certified and transcribed to the Civil department, you may attempt to collect the money that is owed to you. You may wish to send the other party a written demand for payment via certified mail, or you may pursue other collection options such as a Writ of Garnishment.
- Writ of Garnishment:
 - ◆ Forms: Garnishment forms can be purchased online, or at office supply or stationary stores. The following forms are required for the garnishment to be considered complete:
 - Writ of Garnishment: Form No. 1128
 - Debt Calculation: Form No. 529
 - Garnishee Response: Form No. 530
 - Challenge to Garnishment: Form No. 1140
 - ◆ All forms should be typed or neatly printed in ink.
 - ◆ You will need five originals of all forms.
 - ◆ The case heading (plaintiff, defendant and case number) should be filled in on all forms.
 - ◆ If you submit Circuit Court forms, *Circuit Court* must be crossed out and *Justice Court* written in. Please ensure you look through all forms and make this correction each place *Circuit Court* is written.
 - ◆ Indicate who the garnishment is to be served upon. If the debtor's place of employment is the garnishee, you must include the name of the business and the street address. If a financial institution is the garnishee, you will need the bank's name and street address. You do not need to know the account number of the debtor.
 - ◆ The date of the judgment must be filled in. This is the date that the judge signed the judgment.
 - ◆ You are responsible for calculating and completing the amount owed, including the judgment amount, interest, costs, etc.
 - ◆ Complete the heading on the Certificate of Garnishee and the required information on the Garnishee's Duties section of the forms.
 - ◆ You must sign all of the forms where indicated. It is not necessary for your signature to be witnessed.
 - ◆ For the court to issue the Writ of Garnishment, you must provide all five sets of original documents.
 - ◆ Payment of the fee (check or money order) to issue the Writ must accompany the original documents. (*See section regarding fees below.*)
 - ◆ Please include a self-addressed, stamped envelope for the return of your documents. You may wish to use a large manila envelope for this purpose due to the amount of documents. Please ensure to include sufficient postage.

CASE CONCLUSION

If the case is resolved prior to a judgment being awarded, you must file a Motion and Order of Dismissal with the Court. If you are granted a judgment, and the debt has been satisfied, you must file a Satisfaction of Judgment with the Court. Both forms can be found on our website: www.deschutes.org/court/page/small-claims.

FEES

Please make checks or money orders payable to “*Deschutes County Justice Court*”.

Plaintiff, filing claim:	\$37.00
Defendant, denying claim/demanding hearing:	\$37.00
Defendant, denying claim/demanding jury trial:	\$215.00
Plaintiff, formal complaint after defendant demands jury trial:	\$55.00
Certification of Judgment/transcribe to civil docket:	\$9.00
Issue Writ of Garnishment:	\$20.00

OTHER RESOURCES

Court clerks may answer some questions about filing procedures but are prohibited from giving legal advice. For complete legal procedures, you may either contact an attorney or reference the resources below:

Oregon State Bar Library: www.oregonstatebar.org
Oregon Revised Statutes: www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx
Legal Aid Services of Oregon: (541) 385-6944 or www.oregonlawhelp.org
Deschutes County Law Library: www.deschuteslibrary.org/research/legal