

**LANE COUNTY JUSTICE COURT  
SMALL CLAIMS DEPARTMENT**

SMALL CLAIM PROCEDURES  
SMALL CLAIMS JURISDICTIONAL LIMIT IS \$10,000.00

**HOW TO FILE A SMALL CLAIMS COMPLAINT**

Please read these instructions carefully and completely. The clerks will answer your procedural questions, but cannot give you legal advice. An attorney can give you Small Claim advice, but cannot be at the hearing unless a judge signs an order allowing it.

**WHEN THE CLAIM MAY BE FILED AT LANE COUNTY JUSTICE COURT**

One of the following requirements must be met:

- 1) The defendant must reside in the State of Oregon, or
- 2) The wrongful act (tort) charged must have occurred in Oregon, or
- 3) When the claim is based on a contract, defendant must have contracted to perform an obligation under the contract in Oregon.

**IDENTIFYING THE PARTIES INVOLVED IN THE CLAIM**

When filing a Small Claims case, it is important that all parties are identified correctly, and that all names are spelled correctly. The party filing the claim is the PLAINTIFF. The party being sued is the DEFENDANT.

- 1) All INDIVIDUALS must be listed by their proper name. FOR EXAMPLE: JAMES L. SMITH and SUSAN R. SMITH. The parties should not be listed as Mr. And Mrs. James Smith.
- 2) If a BUSINESS is not a CORPORATION, the plaintiff should list the owner's name plus dba ("doing business as") plus the name of the business. FOR EXAMPLE: JAMES L. SMITH dba JIM'S AUTO REPAIRS.
- 3) If a BUSINESS is a CORPORATION, the plaintiff must identify it, and provide the name and address of the corporation's registered agent. FOR EXAMPLE: ABC LOANS, INC., an Oregon Corp (Reg Agent: James Smith). If you need assistance in the proper listing of a business, call the Corporation Commissioner in Salem at 503-986-2200.
- 4) If a BUSINESS is a PARTNERSHIP, the plaintiff must list the names of all partners plus dba ("doing business as") plus the name of the partnership. FOR EXAMPLE: JAMES SMITH & WILLIAM JONES, dba SMITH & JONES, a Partnership.
- 5) If any party is under the age of 18 years or is in the military service or is mentally incapacitated, an attorney should be consulted prior to the filing of the claim to determine the legal standing of the party.

**FILING THE CLAIM**

The Plaintiff must complete the Claim and Notice of Claim form and pay the required filing fee. The claim form must be signed in the presence of the court clerk or a Notary Public. Any judgment awarded will be entered at the statutory rate of interest unless proof is provided showing a higher rate of interest applies and is attached to the claim at the time it is filed.

**In order to file a Small Claim, you must complete a form that you may obtain from the Court. The information you will need to complete the form is as follows (ORS 46.425):**

- a. The correct name, address and phone number of the Plaintiff (person filing the claim). You are required to keep the court advised of your current mailing address during any time any case is pending.
- b. The correct name and address of the defendant (person being sued). **A post office box is not acceptable.**

### **Filing the Claim – (Continued):**

- c. The amount and the date the claim became due.
- d. The nature of the claim.
- e. If the claim is to recover specific personal property, describe the property and list its value.
- f. Remember, you are certifying that you have made a bona fide effort to collect this debt *prior to* filing this case. If you have not made such an effort, you must do so.
- g. If you are seeking statutory damages for a dishonored check, you *must have* made written demand to the defendant not less than 30 days before you filed the suit. You will be required to submit proof to the court before damages can be awarded. (ORS 30.701)

### **PLAINTIFF'S FEES REQUIRED AT FILING     \$37.00**

#### **YOU MUST HAVE THE CLAIM SERVED**

The **Claim and Notice of Claim** may be served by the following methods:

- 1) The Sheriff of the County in which defendant resides (minimum \$36.00 service costs, depending on mileage).
- 2) A private process service of your choice (call your process server for service costs).
- 3) Any competent person 18 years or older who is a resident of Oregon and who is neither a party to the action, nor an officer, director, employee of, or attorney for any party to the action. The Return Service Proof for this method is on the back of the Notice of Claim. The form must be completed and signed by the process server and filed with the court. **When the claim has been served via substitute service, send a copy to the Defendant by First Class Mail.**
- 4) Certified Mail (claim under \$50): Address envelope to the defendant. Specify "Deliver to Addressee Only, Return Receipt Requested." The Post Office will return the "green card" to you that has the defendant's own legible signature. File it with the Court.

**NOTE: Proof of Service by ANY method must be filed with the Court.**

#### **DEFENDANT'S RESPONSE:**

The Defendant must respond to the plaintiff's claim within 14 calendar days after being served with a copy of the Claim and Notice of Claim. The Defendant's Answer is to be completed by the defendant and gives the defendant four (4) options to respond to the claim. Each defendant responding to the claim must sign a Defendant's Answer.

A defendant may assert a counterclaim against the plaintiff for claims arising under the same transaction as the claim. The defendant must file the form and pay a filing fee. A copy of the counterclaim will be sent to the plaintiff.

If the defendant denies the claim, they have the right to demand a jury trial. They will do this by filing an answer. You will be served with a copy. The Court will then enter an order giving you 20 days to file a regular complaint, which may be served by mail on the defendant (the court recommends return receipt type mailing). This applies to claims over \$750 only. These complaints are usually prepared and filed by an attorney. The Court does not supply forms or samples of formal complaints. You must file your formal complaint with the Court within 20 days of being notified to do so, or your case will be dismissed.

### **FILING A DEFAULT JUDGMENT**

If the defendant does not respond to the plaintiff's claim within **14 calendar days** after being served with a copy of the claim, the plaintiff may apply to the Small Claims Department for a default judgment by filling the request for Default Judgment & Non-Military Affidavit and Money Judgment.

### **A JUDGMENT IS THE FINAL DECISION OF THE COURT.**

Payments are to be made directly to the judgment creditor. The court will not collect any money for you. Once the judgment is paid, the creditor is legally responsible for filing a **Satisfaction of Judgment** with the court. If the claim is settled before the entry of a judgment, the plaintiff must file a **Motion and Judgment Dismissing Claim**. These forms are available from the Small Claims Department.

### **COLLECTION OF JUDGMENT**

If a judgment is awarded and the losing party (judgment debtor) does not pay the judgment, Oregon law allows the winning party (judgment creditor) to collect payment through the use of garnishment or execution. A Writ of Garnishment is served on a bank or employer to "attach" the debtor's bank account or payroll check. An Execution is used to seize property of the debtor and to use that property toward payment of the debt. Usually forms are available at stationery stores that sell legal documents. An attorney should be consulted if there are any questions as to which of these methods is most appropriate in your case. The court does not supply either of the above forms.

ORS 55.130 (1 and 2)"Enforcement of judgment when no appeal is taken; fees" authorizes a \$9 fee to transcribe the judgment to the civil docket, giving it a civil case number for garnishment. There is a \$20 filing fee if the Court issues the garnishment, and a service fee for each garnishment if the garnishment is served at the Lane County Sheriff's Office. Additional fees are required if the garnishment is at a bank.

### **COSTS**

You must be prepared to prove your costs (filing fees and service fees paid). Be prepared to present the documentation to the judge in the event your case goes to trial.

Appeals must be made no later than ten days following the date of judgment.

**This information is offered by Lane Justice Court and does not constitute legal advice.  
If you have questions or want advice, please contact an attorney.**