

INSTRUCTIONS FOR FILING A SMALL CLAIMS CASE

**These standard instructions are for informational purposes only
and do not constitute legal advice about your case.**

GENERAL INFORMATION

- ◆ The Small Claims Court handles only certain cases per §13-6-403, C.R.S. Some examples are claims to recover money or property, perform or set aside a contract, or comply with restrictive covenants.
- ◆ If the claim amount exceeds \$7,500.00, you may waive the balance over \$7,500.00.
- ◆ You are not allowed to divide the claims into two separate cases.
- ◆ You cannot file more than two claims in any Small Claims Court in a County during a month nor more than 18 claims in a County during a calendar year.
- ◆ The Statute of Limitations varies depending upon the type of claim.
- ◆ The legal rate of interest is 8% compounded annually.
- ◆ All actions in the small claims court shall be brought in the county in which at the time of filing of the claim any of the defendants resides, or is regularly employed, or has an office for the transaction of business, or is a student at an institution of higher education. In an action to enforce restrictive covenants or arising from a security deposit dispute, the action may be brought in the county in which the subject real property is located. Mediation/settlement assistance may be required in some Small Claims Courts.
- ◆ All cases are heard before a Magistrate or Judge. Jury Trials are not allowed.
- ◆ If you are the Defendant **do not disregard** the Notice, Claim and Summons to Appear for Trial. A judgment could be entered against you, and the other party could start collection procedures.
- ◆ If you are the Plaintiff **do not disregard** a response or counterclaim. A judgment could be entered against you, and the other party could start collection procedures.
- ◆ The Court cannot collect your judgment for you.
- ◆ For additional information, please review the Colorado Rules of Procedure for Small Claims (Rules 501 – 521).
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Plaintiff: The person(s) company or other entity who filed the lawsuit.
- ☒ Defendant: The person(s), company or other entity that the case is filed against.
- ☒ Complaint: The Notice, Claim, and Summons to Appear for Trial form stating the amount claimed and the reason for the claim.
- ☒ Summons: The section of the Notice, Claim, and Summons to Appear for Trial form which informs the Defendant when and where to appear.
- ☒ Response: The section of the Notice, Claim, and Summons to Appear for Trial form where the Defendant can state why the claim is not true or is inaccurate as to the amount.
- ☒ Counterclaim: The part of the response that says why the Plaintiff owes the Defendant money or property.
- ☒ Service of Process: The official means by which the Notice, Claim and Summons to Appear for Trial is delivered to the Defendant to notify him/her that a lawsuit has been filed.
- ☒ Default order: If the Defendant does not appear at the time of the Court Trial, the Court may enter a “default” order which may entitle the Plaintiff to all or some of the relief identified in the Notice, Claim and Summons to Appear for Trial.

- Trial Date: The date that the Plaintiff and Defendant must appear in Court, which is listed on the Notice, Claim, and Summons to Appear for Trial.
- Mediation: A confidential, informal process in which a trained neutral third party helps people in conflict to negotiate a mutually acceptable agreement.
- May: In legal terms, "may" is defined as "optional" or "can."
- Shall: In legal terms, "shall" is defined as "required."

FEES

The filing fee varies based on the amount of the claim. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

- ◆ Claim up to \$500.00: \$ 31.00
- ◆ Claim \$500.01 to \$7,500.00: \$ 55.00

Response fees paid by the Defendant are as follows:

Response without a counterclaim:

- ◆ Claim up to \$500.00: \$ 26.00
- ◆ Claim \$500.01 to \$7,500.00: \$ 41.00

Response with a counterclaim:

- ◆ If Plaintiff's claim is \$500.00 or less and counterclaim is \$500.00 or less: \$ 31.00
- ◆ If Plaintiff's claim is more than \$500.00 or counterclaim is more than \$500.00 and is not more than \$7,500.00: \$ 46.00

Other fees that a party to the case may encounter are as follows:

- Copies of Documents (Documents on File) \$.75 per page or \$1.50 if double-sided
- Copies of Documents (Documents not on File) \$.25 per page or \$.50 if double-sided
- Service Fees Varies (Payable to Process Server)
- Certification Fee \$ 20.00
- Writ of Garnishment \$ 45.00
- Transcript of Judgment \$ 25.00
- Satisfaction of Judgment \$ 20.00

FORMS

To access forms online, go to the website at www.courts.state.co.us and click on the "Forms" Tab. The forms are available in PDF or WORD by selecting "Small Claims". To access a form online, please click either PDF or WORD by the title of the form. You may complete the forms online and print or you may print them and type or print legibly in black ink. **JDF 250 is the initial form that you will need to file a Small Claims Case.**

- JDF 250 Notice, Claim, and Summons to Appear for Trial

Additional forms that you may need:

- JDF 75 Stipulation
- JDF 254 Subpoena or Subpoena to Produce

STEPS TO FILING YOUR CASE

Step 1: Complete the Notice, Claim, and Summons to Appear for Trial (JDF 250).

- Identify the names(s) and addresses of the Plaintiff(s) and Defendant(s) in the caption, see page 3.
- In addition, if the Defendant(s) is/are a business or an entity go online at www.sos.state.co.us (select business section) to determine who the registered agent is to complete service on the Defendant(s). **Note:** It is important that you identify how the Defendant's business is organized. For example, if the business is a sole proprietorship, corporation, etc. Rule 304 of the Colorado Rules of County Court Civil Procedure, identifies how service should be completed based on the type of business and this information will assist the individual who know the rules of service when they serve JDF 250.
- If the Defendant is a governmental agency, you may be required to file a written notice with the Attorney General or other government representative, prior to filing your case with the Court, pursuant to §24-10-109, C.R.S.
- Please answer all four questions with a **Yes** or **No**.
- The Court will complete the box with the scheduled Court Trial date once you file your papers.
- Under the Plaintiff(s) claim section please write a brief description of your claim. Include what you are claiming, the amount you are requesting, and a summary of reasons to support your claim.
- If you are completing JDF 250 using the WORD or PDF version, make sure that you complete all 4-parts of the form.**
- Do not attach any exhibits or paperwork to this form.

Small Claims Court (Print/type name of county here) County, Colorado Court Address: _____ <hr/> PLAINTIFF(S): (Print/type your name and information below.) Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ v. DEFENDANT(S): (Print/type Defendant's name and information below.) Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ _____	<div style="border-top: 1px solid black; border-bottom: 1px solid black; margin: 0 auto; width: 80%;"> ▲ COURT USE ONLY ▲ </div> <hr/> Case Number: _____ Division Courtroom
NAME OF FORM	

Step 2: File your Form with the Court.

- Provide the Court with the Form. **If you are completing the form using the WORD or PDF version, bring all four parts (7 pages) with you to Court. If you have the NCR form, bring the four-part form.**
- Pay the filing fee of \$31.00 or \$55.00 as appropriate
- The Court will complete the section that identifies the date and time for the Court Trial. The Court Trial date will vary with each Court. The Court may require mediation prior to the Court Trial date or on the Court Trial date.

Step 3: Serve the Notice, Claim, and Summons to Appear for Trial

- It is important that service be completed at least 15 days before the trial date. If not, the trial date will need to be rescheduled or your case may be dismissed.
- A separate copy of the **"Defendant's copy"** must be served on each Defendant. If there is more than one Defendant, make a copy of the Front and back of the **"Defendant's copy"** for each Defendant.
- You have two options to complete service.

Personal Service:

- Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older, who is not a party to the case, and who knows the rules of service to serve each Defendant. There is a service fee that is payable to the Sheriff's Department or Private Process Server. The fee for service is usually awarded as part of your court costs if you win your case.
 - You can locate private process servers in the yellow pages under Process Servers.
 - Provide the process server with one copy for each Defendant of the Notice, Claim, and Summons to Appear for Trial "**Defendant's copy**" and the "**Affidavit of Service**" portion.
 - The process server will return the completed Affidavit of Service portion of this form to you to bring and file with the Court before or on the day of your Court Trial.
 - Keep a copy of the Affidavit of Service for your records.

Certified Mail by the Clerk of Court:

- You can request that the Court send the notice by certified mail. **Only the Court can do this.** Certified mail is not the preferred form of service and could result in a delay in your Court hearing.
 - You will be required to pay the cost of certified mail at the time you file your case. This cost varies from \$5.00 to \$15.00.
 - If certified mail cannot be completed, you will still need to have a sheriff or process server serve the form.**

PREPARING FOR MEDIATION

Mediation can be an effective way to resolve your dispute. In mediation, a neutral third party works with the parties in a confidential setting to help them negotiate a mutually acceptable agreement. You may be ordered by the Court to mediate, or you can choose mediation to resolve your case without going to trial. Mediation services are available from the Colorado Office of Dispute Resolution (303-837-3672) or from private mediators (see listings in the Yellow Pages). Some areas offer no-or low-cost community mediation services.

You should bring any legal or financial documents and any other information relating to the dispute with you to the mediation.

POSSIBLE OUTCOMES FROM MEDIATION

- You and the other party may reach a stipulation/agreement. Prepare a stipulation form (JDF 75) to identify the agreement. Both parties should sign the form and provide it to the Court.
- The party may agree that the money is owed and payment is made. Prepare a stipulation form (JDF 75) to identify the agreement and payment made. Both parties should sign the form and provide it to the Court, so that the Court knows that the case can be dismissed. **The stipulation must be signed in the presence of a court clerk or notary public.**
- If you and the other party do not reach a stipulation/agreement, then you will have a Court Trial.

PREPARING FOR THE COURT TRIAL

It is important that you are on time or early for your Court Trial and that you have all of your information with you. Please turn off your cell phone and respect all parties in the courtroom. You may be asked to speak to the other party before the Court Trial to determine if the claim can be settled to avoid going to trial. Below are some steps to follow:

- Before your court date, ask the Clerk if you can observe a small claims court trial. This is **not required**, but may help you feel more comfortable in Court and prepare you for your court trial.
- Determine the evidence that you may need. It is best to organize and label all exhibits, if you have more than one. Examples of exhibits are documents such as photographs, charts, and receipts. Make copies

of the exhibits for the Defendant(s) and the Court. If the Court has to make copies for you, copy fees will be assessed.

- Determine if you will need any witnesses. You can ask the witness to appear voluntarily, or you may need to request the Court to issue a subpoena to each witness. Instructions for Issuing a Subpoena (JDF 79) can be found on the judicial website under the General Section. The Court will accept written statements from the witnesses in most circumstances.
- Before you appear in court, highlight the key issues you would like to present. When others are testifying, take notes on what they say.

POSSIBLE OUTCOMES FROM YOUR COURT TRIAL

- The Magistrate or Judge will usually determine the facts, who won, and the amount of the judgment. The Magistrate or Judge also may make an award of costs (filing fee, service fee(s), and witness fee(s), if applicable) to the winning party.
- The party who was awarded the judgment is responsible for collecting the money. **The Court cannot do this for you.**
- The Court may provide the person who owes the money with either a Motion & Order for Interrogatories – Short Form (JDF 252A) or a Motion & Order for Interrogatories – Long Form (JDF 252B). The interrogatories are designed to help identify where the party works, money held in savings/checking accounts, and property that the debtor owns that can help with collecting the money.
- Additional collection information entitled “Instructions for Collecting a Judgment and Completing a Writ of Garnishment” (JDF 82) is available on the website under Garnishments.