

How to File an Inmate Small Claims Case Against a Public Body Clackamas County

FORMS

Inmate small claims packets are available at the court's information window for \$1.00 or they can be downloaded from our web site at: www.courts.oregon.gov/Clackamas. The claim may be filed for any monetary amount or property value of \$7,500.00 or less.

FILING FEES:

Make your check or money order payable to STATE OF OREGON.

Claim of \$0.00 to \$1,500.00\$46.50
Claim of \$1,500.01 to \$7,500.00\$86.50

FILING AN INMATE SMALL CLAIM AGAINST A PUBLIC BODY

If you are the inmate filing the claim, you are the **plaintiff**. The public body you are suing is the **defendant**. If you file a claim, you will have to swear to the court that you have made a reasonable effort to settle the matter first. To initiate a claim, you must file the Small Claim Inmate Claim and Notice of Claim against a Public Body and pay the required filing fee.

FILING IN THE PROPER COUNTY:

If you are able to answer "YES" to one of the following questions, you may file your claim in Clackamas County.

1. Does the defendant(s) live in Clackamas County?
2. Did the incident happen in Clackamas County?
3. When the claim is based on a contract, the defendant(s) must have contracted to perform an obligation under the contract in Clackamas County.

SERVING THE DEFENDANT

An inmate who brings an action against a public body in a small claims department must serve the notice and claim and all subsequent filings on the public body. If the public body is the Department of Corrections or another state agency, the inmate must also serve the notice and claim and all subsequent filings on the Attorney General.

When filing the claim, you must provide an address, other than a post office box, where a copy of the claim can be delivered to ("served on") the defendant. The Small Claim Inmate Claim and Notice of Claim Against a Public Body must be served on the defendant. **You cannot serve the papers yourself.** Service can be:

1. **By the county sheriff or a process server** of your choice. Contact the Sheriff's Office or a private process server to obtain the current fees for service.
2. **By a 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.

3. **By certified mail.** If you serve the defendant by certified mail the envelope must be marked with the words “**Deliver to Addressee Only**” and “**Return Receipt Requested.**” You should request Restricted Delivery for the Post Office. The return receipt (green card) must show the date it was received, and must be signed by the defendant. It must be returned to the court. If service by certified mail is not successful, you must then use the county sheriff or a process server as described above.

Substitute service may be made by leaving a true copy of the Claim and Notice of Claim at the dwelling house or usual place of abode of the person to be served with any person over the age of 14 years who resides there. If substitute service is made, the plaintiff shall mail a true copy of the notice of claim to the defendant at his/her usual place of abode together with a written statement of the date, time and place at which substitute service was made. This is to be done by **first class mail** (not certified mail). An affidavit or certificate of mailing must then be submitted to the court showing the date that it was mailed.

AFTER THE DEFENDANT HAS BEEN SERVED

The defendant (Public Body) has 30 days after service in which to do one of the following:

1. Pay the claim in full to you, including your court costs;
2. Deny the claim and request a hearing;
3. Demand a jury trial (for claims over \$750);
4. Deny the claim, request a hearing and file a counterclaim;

If the defendant requests a hearing, the court will notify you by mail of the date and time to appear for the hearing.

If the defendant requests a jury trial, you will receive a notice telling you that a formal complaint is required. (**The court does not supply forms or samples of formal complaints.**) You must file the formal complaint with the court within 20 days of the notice or the case will be dismissed. Please be aware that further filing fees will be due upon filing the formal complaint and the response to same and the case may then be referred to arbitration.

DEFAULT JUDGMENT

If the defendant does not respond in the appropriate time, you may request a default judgment on the 31st day after the date of personal service on the defendant, or in the case of substitute service, on the 31st day after notice was mailed to the defendant.

The plaintiff must file and serve the public body or Attorney General with a notice of intent to apply for an order of default at least 10 days before the court approves the default. Before the court can enter a default judgment, the inmate must submit to the court an affidavit of proof of service of the notice and claim and of the notice of intent to apply for an order of default.

A request for default judgment must be in writing. (A form is available from the clerk’s office or the court website.) If everything is in order, the clerk will enter a default judgment against the defendant.

2011 SENATE BILL 77 – Inmate Small Claims Actions against a Public Body

2011 Senate Bill 77 changed the law for certain small claims actions filed by inmates. An inmate who brings a small claims action against a public body must serve the notice and claim (and all subsequent filings) on the public body.

If the public body is the Department of Corrections or another state agency, the inmate must also serve the notice and claim on the Attorney General.

The public body or Attorney General must admit or deny the claim as required by ORS 46.455 within 30 days after the date of service.

The Department of Corrections and other state agencies (including their officers, employees, and agents) may appear in the small claims action through an attorney or paralegal employed by the Department of Justice.

Upon the request of the public body or Attorney General, the court must transfer an inmate's small claims action to the regular department of the circuit court regardless of the amount in controversy and notwithstanding ORS 46.405.

An inmate must file and serve the public body or Attorney General with a notice of intent to apply for an order of default at least 10 days before the court approves the default. Before the court can enter a default judgment, the inmate must submit to the court an affidavit of proof of service of the notice and claim and of the notice of intent to apply for an order of default.

An inmate cannot file an action against another inmate in the small claims department.

Justice courts have no jurisdiction for actions filed by inmates.