

**SMALL CLAIMS INFORMATION SHEET
CURRY CIRCUIT COURT**

AS OF OCTOBER 1, 2011

FILING THE CLAIM:

The Circuit Court Clerk's office has the forms required to file a small claim for \$0.25 (twenty-five cents) per form. Copies are also available for \$0.25 per page. The court personnel can assist you in filling out the form but **CANNOT** give you legal advice.

You may sue for up to \$10,000.00 in small claims court. The person filing the claim is the **PLAINTIFF**. The person being sued is the **DEFENDANT**. To file in this county, the **defendant** must reside in Curry County or the incident must have occurred in Curry County. The plaintiff must provide an address where the defendant can be served. **NOT A POST OFFICE BOX**. The claim must be signed in the presence of the Court Clerk or a Notary Public.

NOTE: If a business is involved either as a plaintiff or as a defendant, the plaintiff must provide the owner's name, or if the business is a corporation, the name and address of the corporation's registered agent must be provided. You can obtain this information by calling the Corporation Division in Salem at 1-503-986-2200.

FEES REQUIRED AT TIME OF FILING:

<u>CLAIM AMOUNT</u>	<u>PLAINTIFF'S</u>		<u>DEFENDANT'S</u>	
\$2500.00 & under	Filing Fee	\$50.00	Appearance Fee	\$50.00
\$2501.00 to \$10,000.00		\$90.00		\$90.00

Service Fee: \$36.00 (may vary if more than 2 defendants at different locations)

NOTE: For the filing fee or appearance fee make your checks payable to "**STATE COURT**"
For the service fee - make your checks payable to "**CURRY CO. SHERIFF'S DEPT.**"

SERVICE:

The claim shall be served by the Sheriff or a Deputy of the county where the defendant can be found or by a competent person 18 years of age or older who is a resident of the State of Oregon and is **NOT** a party to the action nor an officer, director or an employee of, nor attorney for, any party, corporate or otherwise. Service can be by certified mail. If service is by certified mail it must be marked with the words "**DELIVER TO ADDRESSEE ONLY**" and "**RETURN RECEIPT REQUESTED**". The receipt showing service must be filed with the court as proof of service. If service by certified mail is not successfully accomplished, the notice and claim must be served personally. All **RETURNS OF SERVICE** ON DEFENDANTS MUST INDICATE THE CLAIM AND NOTICE WAS SERVED.

DEFENDANT'S RESPONSE:

The defendant must do one of the following within 14 days **after being served**. If the defendant fails to file an answer within the 14 days the plaintiff may request a Default Judgment.

ANY APPEARANCE BY THE DEFENDANT MUST BE ACCOMPANIED BY THE APPROPRIATE FIRST APPEARANCE FEE.

The Defendant may:

1. **PAY THE CLAIM.** Pay the full amount due including the plaintiff's filing fee and service fee. Payments are made directly to the plaintiff (appearance fee not required).
2. **DENY THE CLAIM AND DEMAND A HEARING.** Parties will be notified by mail of the hearing date. Hearings are informal with the plaintiff and defendant appearing without attorneys. The Judge's decision in Small Claims Court is final and cannot be appealed.
3. **DENY THE CLAIM, DEMAND A HEARING AND FILE A COUNTERCLAIM.** The counterclaim must pertain to the same matter as the plaintiff's claim. Counterclaims filed in excess of \$10,000.00 must be transferred to the appropriate court. The counterclaim form must be signed before a Clerk of the Court or a Notary Public.
4. **DEMAND A JURY TRIAL.** This can only be made if the amount or value of the claim **EXCEEDS** \$750.00. All jury trial requests must be accompanied by the defendant's first appearance fee and transfer fee of **\$150.00**. The case **MAY BE** referred to **MANDATORY ARBITRATION** upon the filing of a formal complaint by the Plaintiff.

Plaintiff's Information:

Whenever you receive a payment on your claim, either partially or in full, you **must notify the court in writing**. You may settle this claim out of court if you wish, but you **must notify the court in writing**.

If the **defendant claims the right to a jury trial** your case will not be heard in small claims court. The clerk shall notify you of the demand for a jury trial by mail. **You must then, within 20 days of the mailing of this notice, file a formal complaint with the court. You will also be required to pay an additional filing fee that will be determined upon the amount of your formal complaint.** You must serve a copy of the summons and formal complaint upon the defendant. The summons and formal complaint forms are **not** available at the court clerk's office. It is advisable, but not required, that you employ an attorney. **If you fail to file a formal complaint within the above time line the clerk shall dismiss your claim without prejudice. If your claim is dismissed, judgment may be entered against you for the defendant's appearance fee plus a prevailing party fee.** You are not limited to the amount stated in your original claim, but the claim in the formal complaint must relate to the same controversy. Once a formal complaint is filed, by Local Court Rules, your case **may** be referred to Mandatory Arbitration and you will be required to pay an Arbitrator's fee.

If the defendant fails to answer your initial claim, demand a hearing or demand a jury trial within the statutory time lines, upon written request from the plaintiff the clerk shall enter a default judgment against the defendant for the amount of the original claim plus the filing fees, service fees and a prevailing party fee. The form is available through the court and is entitled "**Request for Judgment / Non-Military Affidavit.**"

Collecting Judgments:

NOTE: THE COURT DOES NOT AUTOMATICALLY COLLECT THE AMOUNT DUE FROM DEFENDANTS. THE FORMS ARE NOT AVAILABLE AT THE COURT CLERK'S OFFICE. YOU MAY REQUEST THE CLERK TO ISSUE, WITH THE PROPER PAPERWORK.

1. A writ of garnishment for wages - if you know where they work.
2. A writ of garnishment on a bank account - if you know where they bank.
3. A writ of execution for personal property - property outside of the home such as cars, boats, etc. - contact the sheriff's office for fees and other requirements.
4. Transcribe your judgment to Circuit Court and put a lien on any real property they own.
5. In cases that involve an automobile accident you may request, 60 days after judgment, that the defendant's operator's license be suspended if the judgment is not paid in full.

You must come to the Small Claims Department to start proceedings on any of the above and pay the statutory court fees.

If you have additional questions about Small Claims Court, you may call the Oregon State Bar's Tele-Law at 1-800-452-4776 and ask to hear tape number 1061.

CURRY COUNTY SMALL CLAIMS OFFICE IS LOCATED AT:
CIRCUIT COURT
29821 ELLENSBURG AVE.
PO BOX 810
GOLD BEACH, OR 97444
541-247-4511 (PROMPT #2)