

PLAINTIFF'S INSTRUCTIONS

PLEASE READ THESE INSTRUCTIONS CAREFULLY AND COMPLETELY. THE CLERKS WILL BE GLAD TO HELP YOU WITH PROCEDURAL QUESTIONS, BUT WILL NOT BE ABLE TO GIVE ANY LEGAL ADVICE. SMALL CLAIM PROCEDURES ARE GOVERNED BY OREGON REVISED STATUTES 46.405 THROUGH 46.560.

FILE A SMALL CLAIM

The party filing the claim is PLAINTIFF; the party being sued is DEFENDANT. To initiate a claim, PLAINTIFF must file the Small Claim and Notice of Small Claim form and pay the required filing fee. To file the claim in this county, DEFENDANT must reside within the county, or the action must have taken place within the county. Beginning October 1, 2011, the claim may be filed for any amount or property value of \$10,000 or less, and the claim form must be signed in the presence of the court clerk or notary public.

SERVICE OF PROCESS (Notifying Defendant)

When filing the claim, PLAINTIFF must provide an address other than a post office box, where a copy of the claim can be delivered (“served on”) DEFENDANT. If there is a business name, either as PLAINTIFF or DEFENDANT, PLAINTIFF must name all individuals in the ownership, followed by “dba” and the name of the business. If the business is a corporation, the PLAINTIFF must list the corporate name and include the name and address of the registered agent (this information may be obtained from the Corporation Commissioner in Salem at 503-986-2200). Personal delivery (“service”) may be made by the sheriff or deputy of the county where DEFENDANT can be found; by an independent process server; or 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. Service may be made by certified mail. **UNDER NO CIRCUMSTANCES MAY A PLAINTIFF SERVE THE DEFENDANT WITH A COPY OF THE CLAIM. When substitute service is made the PLAINTIFF must mail a copy of the claim to the DEFENDANT and file an Affidavit of Mailing with the court.**

DEFENDANT'S RESPONSE

DEFENDANT must respond to PLAINTIFF'S claim within 14 days after service. DEFENDANT may elect any of the following alternatives:

1. **PAY THE CLAIM**, including PLAINTIFF'S filing fee, service fee and any accruing costs.
2. **DENY THE CLAIM AND DEMAND A HEARING**. PLAINTIFF will be notified by mail of the hearing date.
3. **DENY THE CLAIM, DEMAND A HEARING AND FILE A COUNTERCLAIM**. The counterclaim must pertain to the same matter as the PLAINTIFF'S claim.
4. **DENY THE CLAIM AND DEMAND A JURY TRIAL**. This alternative can be chosen only if the amount of value of the claim exceeds \$750. The clerk will notify PLAINTIFF.

If DEFENDANT fails to respond, PLAINTIFF may apply to the small claim department for a Default Judgment.

COLLECTING JUDGMENTS

If a judgment is awarded and the losing party (JUDGMENT DEBTOR) does not make payment, the winning party (JUDGMENT CREDITOR), upon payment of the required fees, may request the clerk to issue:

1. **WRIT OF GARNISHMENT** to be issued to the sheriff's office or a process server in order to obtain money or other property of JUDGMENT DEBTOR which is in the possession of a third party (for example, JUDGMENT DEBTOR'S employer or bank).
2. **WRIT OF EXECUTION** to be issued to the sheriff's office or a process server in order to seize property of JUDGMENT DEBTOR and to use that property towards payment of the judgment.
3. **TRANSCRIPT OF JUDGMENT** to be filed in the circuit court in order to place a lien against JUDGMENT DEBTOR'S real property.

Fees incurred for any of the above will be added to the judgment. An attorney should be consulted as to which of these remedies is most appropriate and to which money or property exemptions may apply.

NOTE: A JUDGMENT IS MERELY A DECISION OF THE COURT. THE COURT **IS NOT** A COLLECTION AGENCY AND WILL NOT SECURE PAYMENT FOR THE JUDGMENT CREDITOR. ALL PAYMENTS SHOULD BE MADE DIRECTLY TO THE CREDITOR. ONCE THE JUDGMENT HAS BEEN PAID, THE JUDGMENT CREDITOR IS LEGALLY RESPONSIBLE FOR NOTIFYING THE COURT IN WRITING AS TO THE FULL OR PARTIAL SATISFACTION OF THE CLAIM. IF THE CLAIM IS SETTLED BETWEEN THE PARTIES PRIOR TO THE ENTRY OF JUDGMENT, PLAINTIFF MUST FILE A “GENERAL JUDGMENT OF DISMISSAL” FORM AVAILABLE FROM THE CLERK'S OFFICE.

If you have any additional questions about small claim court, you may call the Oregon State Bar Tele-Law number at 800-452-7636 and ask for Tape No. 4. You may also contact the small claim department of the county court listed on the front of this form.

NOTICE TO DEFENDANT

READ THESE PAPERS CAREFULLY

Within **14 days** after receiving this notice you **MUST do ONE of the following things in writing**:

- Pay the claim plus the filing fee and the service fee paid by the plaintiff. Send your payment directly to the plaintiff, not to the court; **OR**,
- Demand a hearing and pay the required fee listed below; **OR**,
- Demand a jury trial and pay the required fee listed below. This option is available **ONLY** if the amount of the claim is more than \$750.00.

If you fail to accomplish one of the three options listed above within **14 days after you receive this notice** the plaintiff may ask the court to enter a judgment against you. The judgment will be for the amount of the claim plus the filing fee and service fee paid by the plaintiff. In addition, a prevailing party fee will be assessed.

If you are not able to respond within the 14 days because you are in **active military service of the United States**, speak with a legal advisor about the Servicemembers Civil Relief Act.

Yamhill County Circuit Court
535 NE 5th Street, Room 135
McMinnville, Oregon 97128
503-434-7491

Defendant's filing fees

• To Demand a Hearing if the total amount claimed is \$2,500.00 or less	\$53.00
• To Demand a Hearing if the total amount claimed is more than \$2,500.00	\$95.00
• To Demand a Jury Trial (only if the total amount claimed is more than \$750.00)	\$158.00

If you have questions about filing procedures go online to www.courts.oregon.gov for information and instructions. Or, you may contact a court clerk using the telephone number above. The clerk **cannot give legal advice** to you about the claim; only answer court filing questions.

Note: If the plaintiff is an inmate (ORS 30.642) **AND** the defendant is a government agency or other public body (ORS 30.206), the defendant must respond within **30 days** after receiving this notice.