

Civil Procedure - Courts of Limited Jurisdiction 2007

DISCLAIMER: THE SMALL CLAIMS PORTION OF THE CIVIL PROCEDURE BENCHMARK FOR COURTS OF LIMITED JURISDICTION IS PROVIDED AS A COURTESY FOR USERS OF THE COURT. HOWEVER, THE SECTION HAS NOT BEEN UPDATED SINCE 2007. LITIGANTS SHOULD CONSULT THE CURRENT VERSION OF THE REVISED CODE OF WASHINGTON FOR CHANGES AND UPDATES.

§27 Small Claims

[§27.1 Jurisdiction](#)

[§27.2 Claim](#)

[§27.3 Notice](#)

[§27.4 Hearing](#)

[§27.5 Judgment](#)

[§27.6 Miscellaneous](#)

§27.1 Jurisdiction

A. Amount--The small claims department of the district court has jurisdiction, but not exclusive, for the recovery of money only if the amount claimed does not exceed \$5,000. [RCW 12.40.010](#).

B. Transfer from District Court--A defendant in a district court proceeding may transfer the action to the small claims department if it is within the jurisdictional amount. [RCW 12.40.025](#).

C. Counterclaims--If the defendant counterclaims for more than \$5,000, but less than \$35,000, some courts may transfer the case to the district court civil docket. The defendant, however, cannot remove a small claims case from small claims court as a matter of right by merely filing a claim or counterclaim or other request for relief that is beyond the jurisdiction of the small claims court. [RCW 12.40.027](#). These requests for relief in excess of the jurisdiction of the small claims court may be maintained simultaneously in superior court as a separate action brought by the defendant. [RCW 12.40.027](#).

§27.2 Claim

A. Contents--Pursuant to [RCW 12.40.050](#) and [RCW 12.40.025](#), a claim shall contain:

- (1) The name and address of the plaintiff;
- (2) A brief and concise statement of the nature and amount of the claim and when the claim accrued;
- (3) The name and residence of the defendant, if known to the plaintiff, for the purpose of serving the notice of claim on the defendant; and

(4) Verification by the real claimant.

B. Filing by Assignee--No claim shall be filed or prosecuted in the small claims department by the assignee of the claim unless the plaintiff was an assignee of the claim when the action was commenced in district court and subsequently transferred to the small claims department. [RCW 12.40.070](#); [RCW 12.40.025](#).

§27.3 Notice

A. Issued Upon Filing Claim--See [RCW 12.40.030](#).

B. Contents--The notice of claim directed to the defendant shall contain, pursuant to [RCW 12.40.060](#):

- (1) The name and address of the plaintiff;
- (2) A brief and concise statement of the nature and amount of the claim;
- (3) A statement directing and requiring defendant to appear personally in the small claims department at a time certain, which shall not be less than five days from the date of service of notice; and
- (4) A statement advising the defendant that in case of his or her failure to appear, judgment will be given against defendant for the amount of the claim.

C. Service--The notice of claim can be served either:

- (1) As provided for the service of summons or complaint and notice in civil actions; or
- (2) By registered or certified mail if a return receipt with the signature of the party being served is filed with the court.

No other legal document or process is to be served with the notice, but the court may include with the notice information on the small claims department, local small claims procedure, dispute resolution services, or other matters relating to litigation in small claims departments. [RCW 12.40.040](#).

D. Timing of Service--The notice of claim shall be served promptly after filing the claim. [RCW 12.40.040](#). Service must be complete at least ten days prior to the hearing. [RCW 12.40.040](#).

§27.4 Hearing

A. Setting Time for Hearing--The court shall set a time for hearing upon filing of a claim. [RCW 12.40.030](#).

B. No Attorneys--Only the plaintiff and defendant shall be involved with the litigation in the small claims department unless there has been consent of the judicial officer hearing the case. [RCW 12.40.080](#)(1).

(1) A corporation plaintiff may not be represented by an attorney or legal paraprofessional except as set forth in [RCW 12.40.025](#). [RCW 12.40.080](#)(1).

(2) An attorney is not prohibited from representing the plaintiff in an action transferred to the small claims department from district court if he or she was the attorney of record for the plaintiff at the time the action was commenced. [RCW 12.40.025](#).

C. Witnesses--It is not necessary to summon witnesses, but the plaintiff and defendant in any claim have the privilege of offering evidence in their behalf by witnesses appearing at the trial, and the judge may informally consult witnesses or otherwise investigate the controversy between the parties. [RCW 12.40.080](#)(2), (3).

D. Informal--A formal pleading, other than the claim and notice, is not necessary to define the issue between the parties. [RCW 12.40.090](#). The hearing and disposition of the actions is informal, with the sole object of dispensing speedy and quick justice between the litigants. [RCW 12.40.090](#). The Rules of Evidence need not be applied. [ER 1101](#)(c)(3).

§27.5 Judgment

A. Generally--The judge may give judgment or make such orders as he or she may deem to be right, just and equitable for disposition of the controversy. [RCW 12.40.080](#)(3). **Note:** that the judgment is for money only. *See State ex rel. McCool v. Small Claims Court*, [12 Wn.App. 799](#), 532 P.2d 1191 (1975) (judge of small claims court may order new trial). *See also* [§27.6 A., Fees, infra](#).

B. Payment of Monetary Judgment--If a monetary judgment or order is entered, it is the judgment debtor's duty to pay the judgment upon the terms and conditions prescribed by the judge. [RCW 12.40.100](#).

C. Payment Plan--If the judgment is not paid to the prevailing party at the time the judgment is entered and the judgment debtor is present in court, the court may order a payment plan. [RCW 12.40.100](#).

D. Increase of Judgment Upon Failure to Pay--Pursuant to [RCW 12.40.105](#), if the losing party fails to pay the judgment within 30 days, or the period otherwise ordered by the court, the judgment shall be increased by:

(1) An amount sufficient to cover costs of certification of the judgment;

(2) The amount specified in [RCW 36.18.012](#)(2) \$20.00 without regard to the jurisdictional limits on the small claims department; and

(3) Any other costs incurred by the prevailing party to enforce the judgment, including but not limited to reasonable attorney fees, without regard to the jurisdictional limits on the small claims department.

E. Certification of Judgment--If the losing party fails to pay the judgment according to the terms and conditions within 30 days or is in arrears on any payment plan, and the prevailing party so notifies the court, the court shall certify the judgment in the form prescribed by [RCW 12.40.110\(1\)](#).

(1) The clerk shall enter the judgment transcript on the judgment docket of the district court. [RCW 12.40.110\(2\)](#). Garnishment, execution, and other process on execution provided by law may issue as in other judgments of district courts. [RCW 12.40.110\(2\)](#); [RCW 12.40.090](#). **See also §8, Enforcement of Judgments, *supra***.

(2) Transcripts of such judgments may be filed and entered in judgment lien dockets in superior courts with like effect as in other cases. [RCW 12.40.110\(3\)](#).

§27.6 Miscellaneous

A. Fees--The person serving the notice of claim is entitled to receive from the plaintiff, besides mileage, a fee for such service. [RCW 12.40.040](#). This sum, together with the filing fee, shall be added to any judgment given for plaintiff. [RCW 12.40.040](#); [RCW 36.18.040\(1\)](#). This fee is \$10 for one defendant at one location, and for two or more defendants at the same residence, the fee is \$12, besides mileage. [RCW 36.18.040\(1\)\(a\)](#). The mileage fee is 35 cents for each mile actually and necessarily traveled in going to or returning from any place of service or attempted service. [RCW 36.18.040\(1\)\(i\)](#). The prevailing party incurring charges for service fees from someone other than the sheriff is entitled to recover as court costs only the amount allowed for service fees by sheriffs. [RCW 12.40.045](#).

B. Appeals--No appeal shall be permitted where the amount ***claimed*** was less than \$250; also, no appeal shall be permitted by a party who requested the case be heard in small claims court where the amount ***claimed*** was less than \$1,000. [RCW 12.40.120](#).

(1) **Court Rules**--The Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ) do not apply to appeals of decisions from the small claims department. RALJ 1.1(a). [CRLJ 81](#)(a) provides in pertinent part that the civil rules do not apply to proceedings in small claims court. **See also *Last Chance Riding Stable, Inc. v. Stephens*, 66 Wn.App. 710, 832 P.2d 1353 (1992)**.

(2) **Time Limit**--To appeal a judgment or decision in a small claims action, an appellant must take the following actions within 30 days after judgment is rendered or decision made:

- (a) file a notice of appeal in the district court;
- (b) pay the statutory superior court filing fee;
- (c) post the required bond or undertaking; and
- (d) serve a copy of the notice of appeal on all parties of record. [RCW 12.36.020\(1\)](#).

(3) **Bond or Undertaking**--A bond or undertaking shall be executed on the part of the appellant and filed and approved by the district court. [RCW 12.36.020\(2\)](#). The bond or undertaking shall be in twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater, conditioned that the appellant will pay any judgment, including costs as may be rendered on appeal. [RCW 12.36.020\(2\)](#). No bond is required if the

appellant is a county, city, town or school district. [RCW 12.36.020](#)(2).

(4) **Filing in Superior Court**--When an appellant has filed a notice of appeal, paid the statutory superior court filing fee and the costs of preparation of the complete record, and posted the required bond or undertaking, the clerk of the district court shall immediately file a copy of the notice of appeal, the filing fee, and the bond or undertaking with the superior court. [RCW 12.36.020](#)(3).

(5) **Stay of Proceedings**--When an appeal and any necessary bond or undertaking are properly filed in superior court pursuant to [RCW 12.36.020](#)(3), the appellant may move in superior court to stay all further proceedings in district court. [RCW 12.36.020](#).

(6) **Record of Proceedings**--Within 14 days after a small claims appeal has been filed in superior court by the clerk of the district court, the complete record shall be made and certified by the clerk of the district court to be correct. [RCW 12.36.050](#)(1). The clerk shall then immediately transmit the complete record to superior court. [RCW 12.36.050](#)(1).

(7) **Superior Court's Possession of Cause**--Once the record has been transmitted to the superior court, the superior court becomes possessed of the cause. [RCW 12.36.050](#)(1). Any superior court procedures such as arbitration or other methods of dispute resolution may be utilized by the superior court in its discretion. [RCW 12.36.050](#)(1).

(8) **Superior Court Proceeding**--The appeal shall be de novo in superior court upon the record of the case, as entered by the district court. [RCW 12.36.055](#).