



# Small Claims Handout

## 19<sup>th</sup> Judicial District

*The following is for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.*

**Note for all parties: When filing a document with the court, please write neatly and legibly. Forms are available online if you would rather type it. Don't forget to include your email address.**

**READ THIS ENTIRE DOCUMENT CAREFULLY, FAILURE TO DO SO MAY RESULT IN NOT BEING ABLE TO PRESENT CERTAIN EVIDENCE AND/OR DELAYS IN YOUR TRIAL**

## Service of Complaint

- The Rules for Small Claims give permission to mail the complaint by certified mail with return receipt. This usually doesn't work.
- The better way is to have someone who is 18 or older and not a party to the action personally serve the defendant.
- If you can't find the Defendant prior to the trial date:
  - You can request from the court an "alias" or "pluries" summons to try and serve the defendant. This way you don't have to pay for a new case. It just gives you a new court date.
- Unfortunately, some people can't be found.
  - If the other person has moved, the case may need to be transferred to that new county.

## Defendant's Response

- If you are the Defendant and you want to speak in court to defend yourself, you **MUST file a Response** (JDF 250) and pay the filing fee \$26 or \$41.
  - You may ask for the filing fee to be waived, if you qualify. (JDF 205).
- If you don't file a Response, pay the filing fee, or show up to trial, the *court may enter a default judgment against you.*

- The court will let the Defendant mediate without filing and paying the response fee:
  - But if no agreement is made, the Defendant must file their response and pay the filing fee.
- You should have your response written and filed before the trial.
  - A good response isn't scribbled out, you should take your time and do it well.

## The Counterclaim

- A counterclaim is when the Defendant decides to sue the Plaintiff back.
  - Just like the complaint, it should give the Plaintiff a good idea what you're asking for and how much.
- It is filed at the same time the response is filed. The filing fee with a counterclaim is \$31 or \$46.
  - You may ask for a filing fee waiver (JDF 205 and 206).
- If a counterclaim is made on the trial date, the court may give Plaintiff a continuance to prepare.

## Settlements & Mediation

- At any time in the process, either party can discuss settling (reaching an agreement).
  - If you settle prior to trial, let the court know!
- On the day of the trial, you **will** be required to meet with the other party to negotiate. If a mediator is available, you will do this with a mediator.
  - Be considerate to the mediators – they are volunteering their time to try to help you resolve your case at no cost. All parties are to be reasonable, flexible, and courteous.
  - Mediation is where someone tries to be the middleman between both parties to help parties reach an agreement.
  - Parties must make a good effort to resolve their cases during mediation.
  - Only the plaintiff and defendant are allowed to speak with the mediator. Family, friends, witnesses, or others will not be permitted into the room with the mediator.
  - Mediation is FREE
- If you reach a settlement with the other party:
  - PUT IT IN WRITING, (Stipulation JDF 75)
  - EACH SIDE MUST SIGN IT, AND

- GIVE IT TO THE COURT

# Preparation for Trial

- The Plaintiff bears the burden of proof and the Defendant bears the burden of proof for counterclaims
  - Your job is to **prove** your case. Attacking your opponent will not accomplish this.
- The court will expect everyone to be ready for trial on the trial date.
- You should have your witnesses and evidence at court to prove your case.
  - Evidence is any proof that what you say happened did actually happen. Testimony on the stand is evidence.
- Read **all** papers that you have received from the Court and the other party.

## Exhibits

- Exhibits are your evidence:
  - Photos, Documents, Videos & Audio Recordings, Receipts, Texts, Emails, Contracts, Lease, etc.
- Make sure all evidence is in hard copy (printed paper): no cell phones!
- Audio & Video is preferred to be filed on a flash drive in video format but can be submitted on CD or DVD. You must make **3** copies and provide one to the other party and the court prior to the trial.
  - If you have questions regarding the technological setup available, please contact the division clerk.
- Label your exhibits:
  - Plaintiff → mark with numbers (1, 2, 3...) and the case number
  - Defendant → mark with letters (A, B, C...) and the case number
  - Exhibit stickers are available in the Court Information Center
  - Not every page needs to be marked as a separate exhibit, only the first page of a document with multiple pages.
  - Number each page of each exhibit (i.e. if exhibit 2 has 10 pages, it should be labeled as exhibit 2 and each page should be numbered 1-10)
  - After you have labeled each of your exhibits, make 2 copies of the exhibits. One copy is for yourself, one copy is for the other side, and the original is for the court.
- You must file a copy of your exhibits with the court no later than 11:00 a.m. on the day of trial. You must also give a copy of your exhibits to the other side no later than

11:00 a.m. on the day of trial. Not providing exhibits to the other side and to the court before the trial can delay your case or result in you not being able to use the exhibits in the trial.

## Big Evidence

- Somethings may be too big to bring to court:
  - Such as cars, bales of hay, fences, etc.
- Take a photograph of the exhibit that gives a good idea of why it is important:
  - Such as damages or where something happened.
- The Court Security may deny you bringing in items they consider dangerous.

## Witnesses

- Bring your witnesses with you on the day of the trial.
- A subpoena is not required, but one can be issued by the Clerk's Office if a witness won't appear willingly (JDF 254).
- If you call a witness, you must be prepared to ask them questions.

## Trial: Dos and Don'ts

- Everything you need to know for trial you learned in school:
  - Be on time
  - WAIT YOUR TURN – DON'T INTERRUPT
  - DRESS PROFESSIONALLY AND MODERATELY
- After you have prepared your argument, organized your exhibits, and selected your witnesses:
  - PRACTICE your presentation
  - OBSERVE a small claims trial (the Clerk's Office can provide dates of trials, but usually every Tuesday and Thursday afternoon beginning at 1:15 p.m. in Division C)
- Do Not Bring: cell phones, food & drink, weapons, or illegal substances into court
  - Plan to be at court for 4 hours
- Do Bring: pen and paper, your copy of exhibits, witness questions
- When talking to the judicial officer:
  - Begin with "Your honor"

- Do not be afraid to ask questions! This may be your only chance, so use it.

## How does a Trial Work?

- The court will let parties make an opening statement. It should be short and briefly say what you think the evidence will show.
- Plaintiff goes first:
  - Calls their witnesses to ask questions and get evidence (exhibits) introduced.
  - When Plaintiff is done, Defendant asks questions (cross examination).
  - When Defendant is done, Plaintiff may ask additional questions.
  - Process continues through all of Plaintiff's witnesses.
- After Plaintiff is finished it becomes the Defendant's turn. It is the same process, but reversed:
  - Defendant needs to remember to not only present their defenses, but also any counterclaim proof they have.
  - If there is a counterclaim, the court may allow Plaintiff to present their defenses after the Defendant finishes their case.

## Closing Arguments and the Decision

- After the court has heard all the evidence, you can make a closing argument:
  - This is where you explain why your case is better than the other person's case.
- When closing arguments are complete, the court will make a ruling or decision.
  - If the court orders money damages, you may get a copy of pattern interrogatories (financial questions) either at the windows, or on the court's website if the amount owed isn't paid that day.

## Interpreters

- The court will provide interpreters at your trial.
- It is *your* responsibility to notify the court in advance if you, or any of your witnesses, will require the assistance of an interpreter.

- If you need an interpreter, your case may need to be continued to a new court date, depending on interpreter availability. If we do not know to provide an interpreter your case will be continued.

## Post-Trial

- If a **default judgment** has been entered against you (for not showing up to trial):
  - You have 30 days to file a motion to set aside the default judgment (JDF 253).
- If you want to **appeal** the court's decision:
  - You have 14 days to file the appeal (CRCCP 4 and CRCCP 5).
- I won money, now what?
  - The Court **will not** collect your judgment for you, you have to collect!
    - Step 1:
      - Ask the other party to pay, in full, in writing.
      - If they pay, file a Satisfaction of Judgment (JDF 111) with the Court.
      - If they don't, go to step #2
    - Step 2:
      - Serve Interrogatories (JDF 252)
      - Look at collection options: Garnishments and Liens
      - Available on the state website: [www.coloradojudicial.gov](http://www.coloradojudicial.gov)

# Need more help or have questions?



## The ***Court Information Center***

is here to help self-represented parties in their case

### **Hours & Location:**

Mon, Tues, Thurs, & Fri from 7:30 a.m. - 4:00 p.m.

915 10<sup>th</sup> Street, Centennial-Plaza South Building, 1<sup>st</sup> Floor

Greeley, Colorado 80631

### **Phone, Email, & Website:**

(970) 475-2410

19SelfHelp@judicial.state.co.us

<https://www.coloradojudicial.gov/courts/trial-courts/weld-county>