

Small Claims – Information for Defendant

You have been sued. The person who sued you is the Plaintiff, you are the Defendant.

Do you agree that you owe the money or the property belongs to the Plaintiff?

Disagree

- **You must file an *Answer* with the court within 21 days** of receiving the *Claim*. The clerk will schedule a hearing where you can present your side of the case.

Agree

- **You do not have to file an *Answer*.**
- Pay the claim or return the property immediately.
- The Plaintiff can ask for a **Default Judgment* if no *Answer* is filed, and then ask the Sheriff to collect or recover property.

***Default Judgment:** The court can grant the Plaintiff everything in the *Claim* plus case costs if you Defendant do not file an *Answer* by the deadline.

Fill out and file the forms.

① **To file an *Answer*, choose one of the following options:**



A. Complete & File Forms Online using Guide & File:

Guide & File is an easy to use online tool that prepares your forms and allows you to e-file your forms online, go to: <http://guideandfile.idaho.gov>.

B. E-File using File & Serve:

Alternatively, you can e-file using **File & Serve**; this may be easier if you routinely file a large volume of small claims cases. You can find it online here: <https://idaho.tylerhost.net/ofswab>.

If you are a **business** filing the claim in a county where e-filing is available, you **must e-file** your documents. or

C. Print and File in Person:

To print and fill out your forms go to: www.courtselfhelp.idaho.gov/small-claims or pick up a copy at your local courthouse. Sign and date the completed forms. Make at least two copies: 1 for you and 1 for each Plaintiff, and take them to the court where the Claim was filed.

② **Attend the hearing.**

The court clerk will schedule a trial in your case and send you and the Plaintiff a notice with the date and time. If you do not attend, the judge may grant the Plaintiff a *Default Judgment*, the same as if you hadn't filed an *Answer*. For more information on what to expect in court see *Get Ready for Your Small Claims Trial - Defendant*.

Small Claims



What if the Plaintiff owes me money or has my property?

To ask the judge to order the Plaintiff to return your money or property, you must file your own *Claim*.

Can the Plaintiff and I resolve the case?

Yes, you and the Plaintiff can try to settle the case at any time before the court enters a judgment.

If you reach an agreement it must be explained to the court so that the case can be dismissed or a judgment issued that says what you agreed on.

Can a lawyer represent me?

You cannot have a lawyer speak for you in small claims, but you can talk to a lawyer before and after your trial. If you were sued as a business, the owner or an employee can speak in court, as long as he or she is not a lawyer.

Can I reschedule my trial?

If you have an urgent reason to change the trial date, file a *Motion to Continue (Reschedule) Hearing* at least 2 weeks before your trial. In Guide & File, choose the “Small Claims - Requests Before Hearing” interview.

Can I get an interpreter?

Let the Clerk know if you or a witness needs help with English or has hearing problems. The Clerk can send a free interpreter to your trial.

What if the Plaintiff filed the case in the wrong county?

You can ask the court to change the venue (location) for the case by filing a *Motion to Change Venue*. In Guide & File, choose the “Small Claims - Requests Before Hearing” interview.

What if I miss the deadline for responding?

The Plaintiff can get a *default judgment*. You can ask the court to set aside a default judgment to allow you to respond. You can find the forms online at:

www.courtselfhelp.idaho.gov/small-claims

Get Ready for Your Small Claims Trial – Defendant



Arrive early!

Look for the date and time of your trial on your *Notice*. Plan extra time to get through security and find your courtroom.

Check in with the Clerk.

In some counties, the court will order you and the Plaintiff to talk to a mediator. The mediator will try to help you settle the case without going to trial.

Bring your forms with you.

- Turn your phone off. Remove your hat. No food, no gum, no drinks in the courtroom.
- Stay calm. Be polite. Do not interrupt anyone.
- Do not speak until the judge asks you to.
- If you do not understand something, say, “I don’t understand.”

Tip: Do not bring children unless they can sit quietly for a few hours.

Wait for the court to call your case.

The judge will ask the Plaintiff to speak first. The Plaintiff may show evidence, bring witnesses or statements. Then the judge will ask you to explain why you disagree with the claim. Say the most important reasons that support your case.

Tip: It’s OK to make notes about what you want to say. If you get nervous, just read from your notes.

Bring evidence.

Give the judge copies of your **proof** that supports your case, such as:

- Contracts or other documents
- Receipts or cancelled checks
- Invoices or statements
- Photos

Tip: If you have an audio, video, or other recording, talk to the Clerk as soon as possible. Ask if you need to bring your own equipment.

You can bring witnesses or statements.



You may have a **witness** speak at your trial. If it’s hard for the witness to go to court, ask the witness to write a detailed statement.

If only an expert would know if your claim is correct, you may bring an **expert witness** (or their statement).

After your trial, get your judgment.

If the judge decides the case at the end of the trial you will get a copy of his/her decision (the *judgment*) that day, otherwise you will get the judgment in the mail.

If you disagree with the court’s decision, you can appeal (fight the court’s decision). You have **30 days** after the date of the judgment to file a *Notice of Appeal* with the Clerk. You will have to pay an **\$81** filing fee.

Warning! The 30-day deadline is very strict.

If the Plaintiff disagrees with the court’s decision, s/he can also appeal. If this happens, the Clerk will send you a *Notice of Appeal*.

Note: Appeals are more formal than small claims process. The parties can have lawyers.

If the Plaintiff wins, pay your judgment.

If Plaintiff wins the case, the court will make a *judgment* and order you to promptly pay or return property to the Plaintiff. If the judgment was by default, the Plaintiff can collect immediately. Otherwise, s/he will need to wait 30 days to collect. To collect, the Plaintiff can ask the court to have the sheriff:

- Garnish your wages,
- Take money from your bank account,
- Take and sell personal property, and/or
- File a lien on real estate and foreclose.

You can also be ordered to come to court for a debtor’s examination for the Plaintiff to find out what you have that can be used to pay the judgment. **Warning!** If you do not come to court for the examination, you can be held in contempt, and a warrant can be issued for your arrest.

Note: Some types of money and property cannot be taken if **exempt**, see the pamphlet *Collecting on your Small Claims Judgment* for more information.

After you pay, the Plaintiff must file a form.

The Plaintiff **must** tell the court when you have paid the total judgment by filing a *Satisfaction of Judgment* form. If the Plaintiff will not file the form, you can file a *Motion for Satisfaction* to ask the court to enter an official record that the judgment was paid.

Questions? Visit the Court Assistance Office at your local county courthouse. Talk to a lawyer; Judges and court staff cannot give legal advice.