

INTRODUCTION

The Small Claims Court is an informal court for the purpose of dispensing fair, speedy justice on claims up to \$10,000.00. No formal pleading other than the Affidavit of Complaint by the Plaintiff and the Order setting the hearing are necessary. While Small Claims are official court cases, trials are informal with the sole object of dispensing fair and speedy justice between the parties.

WHO CAN USE THE SMALL CLAIMS COURT

Any person, corporation, partnership, or other legally constituted organization can file an action in the Small Claims Court. Only the original parties to the transaction that forms the basis of the Small Claim can represent or bring a claim without (prior to trial) presenting a lawful notarized assignment of the claim executed by the real party in interest and approved by the Court. A corporation, partnership, business trust, estate, trust, association or any other nongovernmental legal or commercial entity may be represented by its director, officer, or employee.

WHEN TO USE THE SMALL CLAIMS COURT

Small Claims Court is for the recovery of money only. The Plaintiff will have to prove that demand for payment was previously made to the Defendant(s), and that the Defendant(s) refused to pay. Ordinarily, personal injury claims, property damage claims, and claims for canceling, avoiding, or collecting on a contract may be filed. If the Court determines that because of jurisdictional limitations, the rights and obligations of the parties cannot be adjudicated in the Small Claims forum, such claims will be dismissed without prejudice to the parties' rights to re-file in a different forum.

If your claim exceeds \$10,000.00, you may still use the Small Claims Court, but your relief is limited to \$10,000.00 and you may lose the right to sue for the excess.

Some examples of situations in which you may sue in the Small Claims Court are:

- (a) When someone owes you money and you have demanded payment in writing, but the party has refused to pay;
- (b) When someone owes you money for goods sold and delivered or for past bills, services rendered or on bad checks;
- (c) When your landlord refuses to account for or return your security/cleaning deposit, or your tenant refuses to pay rent owed which has accrued and/or for damages to the premises, other than normal wear and tear;
- (d) When someone has negligently damaged you or your property and won't pay for the medical bills or repairs

Before commencing a Small Claims Court action, you should contact the other party and try to solve the problem by coming to an agreeable settlement. On the day of the hearing, and prior to the hearing, the Court **will** direct you to discuss a settlement with the other party if you have not already done so.

WHERE AND AGAINST WHOM

A SMALL CLAIM ACTION MAY BE BROUGHT

If the Defendant is a resident of, does business in, or is employed in Tahoe Township, the Tahoe Justice Court may proceed to hear the action. The Plaintiff must supply the court with the correct physical and mailing address of the Defendant. Tahoe Township includes the Lake Tahoe Basin portion of Douglas County, Nevada.

The Defendant must be served with a copy of the Affidavit of Complaint and the Order setting the hearing within a minimum of ten (10) days prior to the date of the hearing. The Court requires that a Defendant in Small Claims cases be personally served by the Constable, Sheriff, a Licensed Process Server, or by registered or certified mail, return receipt requested.

The filing and service fee must be paid by the Plaintiff to initiate the action, but may be recovered as part of the judgment if the Plaintiff prevails at the trial.

To sue a business in Small Claims Court, the proper party who represents the entity must be named on the Affidavit of Complaint and Order. The claim must be filed against the owner, doing business as the business name of Defendant.

If your claim is against a corporation, the Secretary of State (775-684-5708) can provide the name and address of the "Resident Agent." The claim must be filed against the Corporation, indicating the resident agent for purposes of service. If there is no resident agent for the Corporation, personal service may be made on the president, secretary/treasurer or other responsible officer.

It is important to list the business or corporate title of the Defendant exactly.

STARTING A SMALL CLAIM ACTION

The party filing a Small Claim is referred to as the Plaintiff. The party filed against is referred to as the Defendant. To initiate an action in the Tahoe Justice Small Claims Court, the Defendant (if an individual) must be a resident of, or do business in, or be employed in Tahoe Township. A business Defendant must be located in Tahoe Township or the Resident Agent for the corporation must be located in Tahoe Township.

You must file a claim, called an Affidavit of Complaint, with the Civil Court Clerk. The Affidavit must state whom you are suing, the amount of money you are suing for and for what reason(s) you claim the money. Any bill must be one owed directly to you and not to anyone else. You must know the full name and correct physical and mailing address of the Defendant and whether the Defendant is an individual, sole proprietorship, partnership or corporation.

The Plaintiff will be required to complete a Small Claim Action Form with information necessary to process the claim. Once submitted, the Clerk will type the Affidavit of Complaint and Order, which must be signed and sworn to before a Notary Public or Court Clerk. A case number and Court date will be assigned and a filing fee will be charged. The Court date will be approximately four weeks following filing. The court date may be continued if there is a problem in serving the Defendant. The Court may reset the Court date as necessary.

The Plaintiff will be given two service copies to be taken immediately to the process server of their choice which must be the Constable, the Douglas County Sheriff or a Licensed Process Server. One copy will be returned to the Court once service has been made.

WHAT DOES IT COST? FEES OF FILING AND SERVICE

The statutory filing fee for any claim up to \$1,000.00 is \$71.00; \$91.00 for any claim between \$1,000.01 and \$2,500.00; \$111.00 for any claim between \$2,500.01 and \$5,000.00; \$151.00 for any claims \$5,000.01 and \$7,500.00; and \$201.00 for any claim between \$7,500.01 and \$10,000.00. This fee is due at the time of filing. Cashier's checks, money orders and personal checks are to be made payable to Tahoe Justice Court.

The fee for personal service depends upon the individual process server and/or location of service. The Small Claims Affidavit and Order must be served by the Constable, Douglas County Sheriff or a Licensed Process Server. Service may also be made by registered or certified mail, return receipt requested.

If the Defendant pays the Plaintiff's claim after having been served, but before the Small Claims hearing, the Plaintiff is thus entitled to recover from the Defendant the costs of filing the suit and having it served. Should both parties appear on the assigned hearing date and the Plaintiff is awarded judgment, the Plaintiff is usually awarded costs of filing the claim and having it served in addition to the principal claim.

PREPARING FOR TRIAL

The time of hearing:

It is essential that you know your Court date and the time and place of the hearing. You must be in Court promptly at the scheduled time and ready to present your case when it is called. Please refer to your case number and court date whenever inquiring about your claim.

Witnesses:

You may bring witnesses who have first-hand knowledge of your claim who might help you prove your case. A witness's compulsory attendance can be obtained by requesting the issuance of a subpoena. By statute, the witness is entitled to a \$25.00 fee, plus mileage (*refer to NRS Chapter 50*) for every mile the witness must travel to the Justice Court. Both of these charges are payable in advance by you to the subpoenaed witness. The Constable or Sheriff will charge a fee to serve the subpoena. The fees for subpoenaing a witness will not be awarded as a court cost.

Copies of Documents:

You should assemble any papers, documents, receipts or pictures which pertain to your case and bring them, with two (2) sets of copies, when you appear for your hearing. One set is for the court file, one set is for you, and the third set is for the other party. If copies are not supplied, they may not be used in evidence.

If you should move, please notify the Court of your new address so you will be sure to receive any correspondence regarding your case.

WHAT TO DO AT THE HEARING

For the Plaintiff:

The trial will be a simple, informal hearing before a Judge. All testimony will be taken under oath and is recorded.

You, as the Plaintiff, will have the burden of establishing your claim by a preponderance of the evidence. When your case is called, you should be able to explain as simply and concisely as possible why the Defendant owes you money.

If the Defendant does not appear, and has been properly served, you may be awarded your judgment by default. If the Defendant does appear, the Judge will hold the hearing and may render a decision on the case at its conclusion, or may notify you of the decision by mail.

If the total claim is paid out of Court before the trial date, it is the responsibility of the Plaintiff to notify the court in writing to dismiss the action.

For the Defendant:

As the Defendant, you have the same applicable rights and responsibilities as outlined for the Plaintiff. If you do not wish to contest the Plaintiff's claim, you may make an out of court settlement with the Plaintiff prior to the trial date. This is accomplished by a stipulation by the parties which states the arrangements agreed upon by both parties. Once you have been served with the claim, even if you settle, you are responsible for paying to the Plaintiff the court costs (filing fee and service fee) unless otherwise agreed. If, after a settlement is approved by the Court, the Defendant breaks the written arrangements, the Plaintiff may be authorized to immediately seek collection of the total outstanding balance.

A Defendant has twenty (20) days after service to file a counter claim. If a Defendant feels a counter claim is appropriate, defendant should consider consulting an attorney to determine if it is a compulsory or permissive counter claim, or if it is merely a set-off that need not be filed.

Failure to appear:

If the Defendant does not appear for the hearing at the appointed time, a judgment by default plus Court costs may be entered for the Plaintiff. If the Plaintiff does not appear on time for the hearing, the claim may be dismissed.

COLLECTING ON A JUDGMENT

It is not the Court's function or duty to collect what is owed to you. You have the primary responsibility for taking the action necessary to collect your judgment.

A judgment in a Small Claims case is enforceable for a period of six (6) years from the last date of action entered on the court docket. The procedures for collecting a judgment can be complicated. The Civil Court Clerk cannot give you legal advice, therefore, you may wish to consult an attorney. If, after a reasonable period of time, you have not been paid, you can request that the court issue an "Execution" for attachment. The fees for the issuance and service of an execution must be paid at the time the papers are filed and may be added to the judgment.

The Plaintiff must be able to inform the Clerk what property is to be attached and its location.

If an execution is served and returned to the court unsatisfied, the Plaintiff may request a “Supplementary Proceeding” hearing be scheduled. A Court Order may then be served on the Defendant ordering him or her to appear before the Judge and disclose his or her assets to you. There is an issuance fee charged by the Court for this Order, and the Constable or Sheriff will charge a service fee that can be added onto the judgment.

A judgment is enforceable in another state if a Defendant should leave the state of Nevada. You must comply with the laws governing such procedure of the particular state where you find the Defendant residing.

APPEALING A SMALL CLAIM DECISION

A Plaintiff or Defendant who is dissatisfied with the judgment in their Small Claim case may appeal the case to the District Court within five (5) judicial days from the date of entry of judgment. The appeal is based on the Small Claim hearing record. No new trial is conducted in the District Court.

The appealing party must first file a formal “Notice of Appeal” with the Clerk of the Justice Court within the above five (5) day time period. The filing fees due are \$25.00 for the Notice of Appeal and \$25.00 for the Preparation and Transmittal of Papers on Appeal.

The appealing party must order an audio recording of the Small Claims hearing and pay the \$50.00 fee to the Justice Court Clerk. Once the recording is received, the appellant must order a transcript and pay its cost directly to the Court Reporter of their choice. The appeal will not be filed and considered by the District Court until a transcript is received by the Justice Court Clerk. See JCRCP Rule 99.

If the Defendant appeals, Defendant must post an Appeal Bond in the form of a Cash Bond or Surety Bond in the sum of the judgment. The Appeal Bond filing fee is \$25.00. If the Appeal Bond is filed at the same time as the Notice of Appeal, then only one fee is required.

The Justice Court Clerk will also collect the District Court Appeal Fee in the amount of \$142.00. This must be in the form of a check, money order or cashier’s check payable to the Ninth Judicial District Court.

ANY FURTHER GENERAL INFORMATION REGARDING SMALL CLAIMS IS AVAILABLE THROUGH THE CIVIL CLERK HERE IN JUSTICE COURT. ANY SPECIFIC LEGAL ADVICE MAY BE OBTAINED THROUGH AN ATTORNEY. THE CLERK CANNOT OFFER LEGAL ADVICE.

SMALL CLAIM ACTION

THE DEFENDANT MUST RESIDE, WORK OR DO BUSINESS IN TAHOE TOWNSHIP

NAME OF PLAINTIFF _____

PERSON SIGNING AFFIDAVIT _____

PLAINTIFF'S MAILING ADDRESS _____

PLAINTIFF'S PHYSICAL ADDRESS _____

PLAINTIFF'S TELEPHONE NUMBER(S) _____

NAME OF DEFENDANT _____

DEFENDANTS'S MAILING ADDRESS _____

DEFENDANT'S PHYSICAL ADDRESS _____

DEFENDANT'S TELEPHONE NUMBER(S) _____

DEFENDANT'S EMPLOYER _____

WORKING HOURS _____ DAYS OFF _____ DEPT/POSITION _____

AMOUNT CLAIMED \$ _____ REASON FOR INDEBTEDNESS _____

HOW WAS PAYMENT DEMANDED? ☐ VERBAL ☐ WRITTEN

WHEN _____

COURT USE ONLY:

Constable fee _____

Mileage fee _____

Total _____

TYPE OF SERVICE

☐ PERSONAL

PHYSICAL ADDRESS WHERE SERVICE IS TO BE MADE _____

☐ REGISTERED/CERTIFIED MAIL, RETURN RECEIPT REQUESTED

MAILING ADDRESS _____

FILING FEES

UP TO \$1,000.00.	\$71.00
\$1,000.01 - \$2,500.00.	\$91.00
\$2,500.01 - \$5,000.00.	\$111.00
\$5,000.01 - \$7,500.00.	\$151.00
\$7,500.01 - \$10,00.00	\$201.00

MONEY ORDER, CASHIER'S CHECK (PAYABLE TO TAHOE JUSTICE COURT), PERSONAL CHECK WITH VALID ID, VISA, MASTERCARD AND CASH ARE ACCEPTED FORMS OF PAYMENT.