

# Tahoe Justice Court

Douglas County

State of Nevada

Michael Johnson  
JUDGE



P.O. BOX 7169 • 175 HIGHWAY 50  
STATELINE, NV 89449  
(702)586-7200

Attached are the forms to file a Small Claim Action in this Court.

**The defendant must reside, work or do business in Tahoe Township.**

Please fill out the Small Claim Action form legibly and **COMPLETELY**. The entire form must be completed before we can accept the matter for filing. It is necessary that we have **both physical and mailing** addresses.

**If you are personally returning the Small Claim Action form**, we will provide and prepare an Affidavit of Complaint and Order, which you will sign in the presence of a Court Clerk. The filing fee may be paid by credit card, cash, personal check (in person only), money order, or a cashier's check, payable to the Tahoe Justice Court, all major credit cards are accepted (*there is a 3% transaction fee assessed by the credit card agency*).

**If returning forms by mail**, complete the Affidavit of Complaint form, signing in the presence of a Notary Public. Enclose the forms and the filing fee with a money order or cashier's check, made payable to the Tahoe Justice Court.

Once the forms are filed, they will be returned to you by mail. You are responsible at that time to arrange service of the documents. An information sheet regarding service is enclosed.

If the case is settled out of Court before the hearing date, it is the responsibility of the **PLAINTIFF** to notify the Court **in writing** to dismiss the action and request the hearing date be vacated.

## 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 Sheriff or a Licensed Process Server.

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, the 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 and Order (A&O)**, with the 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 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 filing. Once submitted to the Court, the Clerk will type the Affidavit of Complaint and Order, which must be signed and sworn to before the Court Clerk or a Notary Public, if returning forms by mail. 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 may reset the Court date as necessary.

The Plaintiff will be given two service copies of the Affidavit of Complaint and Order (A&O) to be immediately taken to the process server of their choice; the Douglas County Sheriff, or a Licensed Process Server. One copy must 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 (accepted in person only) 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 Douglas County Sheriff or a Licensed Process Server.

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 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. BEFORE a judgment is entered, you, as the Plaintiff, MUST fill out the "Affidavit Confirming Defendant is not in Service" and file it with the court (Last page of packet).

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 between 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 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 \$25.00 filing fee for issuance of the Execution

and the service fee are required to initiate the attachment and may be added to the judgment. The fee for service depends on the individual process server and/or location of service.

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 file a written request for a "Supplementary Proceeding" hearing. 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 a fee charged by the Court for this Order. The Sheriff will charge a service fee which may be added to 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 along with the required fees; \$25.00 for the Notice of Appeal; \$25.00 for the Preparation and Transmittal of Papers on Appeal; and \$50.00 for an audio recording of the Small Claims hearing. The Justice Court Clerk will also collect the District Court Appeal fee in the amount of \$142.00, accepted with a money order or cashier's check made payable to the Ninth Judicial District Court.

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/or considered by the District Court until a transcript is received (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 bond is filed **after** the Notice of Appeal is filed.

Forms of Payment: cash, money order, cashier's check, personal checks (only accepted in person), checks are made payable to the Tahoe Justice Court, all major credit cards are accepted and assessed a 3% transaction fee by the credit card agency.

**ANY FURTHER GENERAL INFORMATION REGARDING SMALL CLAIMS IS AVAILABLE THROUGH THE JUSTICE COURT CLERK. ANY SPECIFIC LEGAL ADVICE MAY BE OBTAINED THROUGH AN ATTORNEY. *CLERK'S CANNOT OFFER AND/OR GIVE 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 \_\_\_\_\_  
No./PO Box #                      City                      State                      Zip code

PLAINTIFF'S PHYSICAL ADDRESS \_\_\_\_\_  
No.                      City                      State                      Zip code

PLAINTIFF'S TELEPHONE NUMBER(S) \_\_\_\_\_

NAME OF DEFENDANT \_\_\_\_\_

DEFENDANT'S MAILING ADDRESS \_\_\_\_\_  
No./PO Box #                      City                      State                      Zip code

DEFENDANT'S PHYSICAL ADDRESS \_\_\_\_\_  
No.                      City                      State                      Zip Code

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 \_\_\_\_\_

Constable fee \_\_\_\_\_

Mileage fee \_\_\_\_\_

Total \_\_\_\_\_

**SMALL CLAIM ACTION**

**TYPE OF SERVICE**

PERSONAL                       LICENSED PROCESS SERVER

PHYSICAL ADDRESS WHERE SERVICE IS TO BE MADE \_\_\_\_\_

REGISTERED/CERTIFIED MAIL, RETURN RECEIPT REQUESTED

MAILING ADDRESS \_\_\_\_\_

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**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

FORMS OF PAYMENT: MONEY ORDER, CASHIER'S CHECK, PERSONAL CHECKS  
ACCEPTED IN PERSON ONLY MADE PAYABLE TO THE TAHOE JUSTICE COURT, ALL  
MAJOR CREDIT CARDS ARE ACCEPTED AND ARE ASSESSED A 3% TRANSACTION FEE  
BY THE CREDIT CARD AGENCY.

