

MALHEUR COUNTY JUSTICE COURT - SMALL CLAIMS INSTRUCTIONS

YOU MUST FIRST MAKE A BONA FIDE EFFORT TO COLLECT.

IF YOU GET A JUDGMENT, THE COURT DOES NOT COLLECT;

YOU MUST TAKE STEPS TO COLLECT THE JUDGMENT.

PLEASE READ ALL INSTRUCTIONS VERY CAREFULLY

LIMITS: CLAIM (not including court costs) MUST BE **LESS THAN \$10,000.00**; THE DEFENDANT MUST LIVE IN MALHEUR COUNTY OR THE ACTION MUST HAVE TAKEN PLACE IN MALHEUR COUNTY. CHECK THE STATUTES FOR TIME LIMITS ON SPECIFIC CLAIMS. CLAIMS MUST BE FOR EITHER RECOVERY OF MONEY OR DAMAGES ONLY.

Please read these instructions carefully and completely.

NOTICE: Small Claims Court is available to you so that you may pursue your claim without legal representation. ALL steps of the process depend upon your initiation and carry-through. The court cannot advise you in filling out forms, or in proper procedure. If you get a judgment, you must take the steps to collect - the court CANNOT collect.

1. Use black ink - PRINT OR TYPE.
2. Make separate checks for filing fee (Malheur County Justice Court - \$35.00 and Malheur County Sheriff service fee (\$36).
3. Names and statements made in the Claim and Notice must be legible and correctly spelled. You are the "Plaintiff(s) if you are filing the claim. The person(s) or company being sued are the Defendant(s). All persons must be listed by proper names (i.e., John Doe and Jane Doe, not Mr. & Mrs. Doe).
4. Service cannot be made upon a post office box - you must provide a physical address or work place for the defendant.
5. If a business is not a corporation, the name of the business owner should be listed, followed by "dba" (doing business as), and the name of the business (i.e., John Doe, dba John's Catering). You cannot collect against an individual if he is not individually named in the caption, nor against a company, if it is not named in the caption of the claim.
6. If a business is incorporated, it should be so identified, and the name and address of the corporation's registered agent or an officer of the corporation provided (i.e., John's Catering, 1178 SW 4th ST. STE #1., Ontario, OR 97914.) If you need information about an Oregon corporation, call the Corporate Division of the Secretary of State Office at (503) 986-2200.
7. If a person or business is a partnership, list the name of the partnership, after the name of each partner (i.e., John H. Doe and Jane P. Smith, dba J&J Catering, a partnership).
8. If any person involved in the dispute is under the age of 18 years, or is in military service, or mentally incapacitated, you must determine the legal standing of that party. You may want to consult an attorney for assistance.

WE ARE NOT PERMITTED BY LAW TO GIVE LEGAL ADVICE - IF YOU NEED HELP WITH YOUR CLAIM BEYOND THESE INSTRUCTIONS, PLEASE CALL AN ATTORNEY.

Plaintiff must fill out the Claim and Notice of Claim form completely. **SIGN IN THE PRESENCE OF A COURT CLERK OR NOTARY PUBLIC.** You must have previously made a bona fide attempt to collect the

amount, prior to filing.

Statutory filing fee is \$35.00, cash or check payable to Malheur County Justice Court. **FILING FEES ARE NON REFUNDABLE.** Payment of service fees can be made to Malheur County Sheriff or another server. **MAKE THE SERVICE FEE CHECK OUT TO WHICHEVER OFFICE YOU PREFER; SEPARATE FROM THE FILING FEE CHECK.** Statutory amount for service is \$36.00, which will provide service to 1 or 2 defendants at the same time.

Service may also be made by RESTRICTED DELIVERY CERTIFIED MAIL TO EACH DEFENDANT named, if the amount of your claim is LESS THAN \$50.00.

Filing and service costs are added onto the claim you are filing, and if you are awarded a Default judgment, it will be included in that amount, along with a \$100.00 statutory prevailing party fee.

UNDER NO CIRCUMSTANCES MAY A PLAINTIFF SERVE A DEFENDANT. SERVICE MUST BE MADE BY A PERSON 18 YEARS OF AGE OR OLDER, A RESIDENT OF THE STATE OF OREGON, WHO IS NOT A PARTY TO THE CLAIM.

Defendant is directed to file an "Answer" with the court WITHIN 14 DAYS of service. Defendant may:

1. PAY THE CLAIM - Payment by Defendant must include Plaintiff's filing, service and \$100.00 prevailing party fee.
2. DENY THE CLAIM AND DEMAND A HEARING - A hearing date is set and parties will be notified by mail. Hearings are informal; parties appear without attorneys. The judge's decision is final. (\$35.00 hearing fee) (\$115.00 prevailing party fee.)
3. DENY THE CLAIM, DEMAND A HEARING AND FILE A COUNTERCLAIM - The counterclaim must involve the SAME MATTER as the Plaintiff's claim. (\$35.00 hearing fee) (\$115.00 prevailing party fee.)
4. DENY THE CLAIM AND DEMAND A JURY TRIAL - Claim must be over \$750.00. The court will notify Plaintiff that a formal complaint must be filed and served on Defendant with a summons, and the claim will be set for trial in Justice Court. (\$215.00 hearing fee plus a \$125.00 jury fee; plaintiff pays \$55.00.)

IF PLAINTIFF'S FORMAL COMPLAINT IS NOT FILED WITHIN 20 DAYS AFTER NOTIFICATION BY THE COURT, DEFENDANT MAY ASK THE COURT TO DISMISS THE CLAIM. IF PLAINTIFF'S FORMAL COMPLAINT IS FILED, THE CASE WILL NO LONGER BE CONSIDERED A SMALL CLAIMS CASE, AND PARTIES MAY BE REPRESENTED BY AN ATTORNEY, IF THEY CHOOSE.

If the matter goes to trial, the prevailing party fee is **\$115.00 not \$100.00.**

ENTRY OF DEFAULT JUDGMENT

If Defendant does not file an Answer within 14 days, including weekends, excluding legal holidays, Plaintiff may be granted a Default Judgment. **PLAINTIFF MUST REQUEST JUDGMENT. Judgment fee - \$0** Filing and service costs are added onto the claim you are filing, and if you are awarded a Default judgment, it will be included in that amount, along with a \$100.00 statutory prevailing party fee.

If Plaintiff does not request judgment by default within 60 days after service on the Defendant, the court may dismiss the case for want of prosecution.

DISMISSAL OF CASE

Plaintiff may dismiss any time after filing a Claim. Court may dismiss if neither party takes action for 60 days.

JUDGMENT VALIDITY

A judgment is valid for a period of 10 years and is renewable for another 10 years. An order renewing a judgment must be signed by a judge and filed with the court before the expiration of the original judgment.

JUDGMENT COLLECTION INFORMATION

If a judgment is given and the losing party does not voluntarily make payment once default judgment is entered, the winning party must request a **Certification of Judgment** with the court in order to take legal action and collect. Plaintiff must wait 10 days after judgment/default judgment is entered to request this form. The fee for this step is \$9.00. After this step is taken and you have received the CERTIFICATION OF JUDGMENT, the plaintiff must wait 1 day to return to do the next step.

GARNISHING PROCESS

A request to the court to issue a WRIT OF GARNISHMENT to the debtor's employer, a third party holding debtor's personal property, or a bank where the debtor has an account, in order to obtain money or other personal property of the judgment debtor.

The Plaintiff must completely fill out the garnishment forms and present them to the court (or and attorney) to be issued. If paying by check, make SEPARATE CHECKS TO EACH AGENCY: Writ Issuance Fee: \$20.00 and \$3.00 for the forms fee. Service Fee \$25.00 Bank Search Fee (if garnishing a bank): \$10.00.

Please note you must make your check or money order payable to:

Malheur county Justice Court
1178 SW 4th St.
Ontario, OR 97914

Service fees should be written to:

Malheur County Sheriff Dept.
151 B. Street West
Vale, OR 97918

All Justice Court fees and requirements are different, so please have the correct information ready for processing. Incorrect information or fee amounts could cause a delay in getting your claim processed or could cause it to be sent back unfiled.

NOTE: Other methods for collection of judgment may also be available to the creditor. An attorney may be consulted, or the Oregon Revised Statutes are available to the creditor in the law library of the Malheur County Courthouse.

JUSTICE COURT PERSONNEL, ARE NOT ALLOWED TO GIVE LEGAL ADVICE. THE COURT IS NOT THE COLLECTOR OF JUDGMENTS THE PLAINTIFF IS.

TRANSCRIBING JUDGMENT TO CIRCUIT COURT

A Small Claims Court judgment can be transcribed to Circuit Court in order to place a lien against judgment debtor's real property in Malheur County. Transcript Fee: \$9.00 to Justice Court; \$8.00 to Circuit Court (separate checks).

Creditor may also pursue a Writ of Execution against vehicles the debtor may own, or transcribe judgment to another Oregon county for pursuit under that jurisdiction. Please consult an attorney or the law library for further information.

SATISFACTION OF JUDGMENT

The judgment creditor must file a Satisfaction of Judgment with the Court when full payment of the judgment has been received. The satisfaction form for use by the creditor is available at the Justice Court office.

A JUDGMENT IS THE DECISION OF THE COURT. THE COURT IS NOT A COLLECTION AGENCY, AND WILL NOT SECURE PAYMENT FOR THE JUDGMENT CREDITOR.

ONCE THE JUDGMENT HAS BEEN PAID, THE CREDITOR IS LEGALLY RESPONSIBLE FOR FILING A WRITTEN SATISFACTION OF JUDGMENT.

IF A CLAIM IS SETTLED BETWEEN THE PARTIES PRIOR TO ENTRY OF A JUDGMENT, THE PLAINTIFF WILL FILE A DISMISSAL FORM WITH THE COURT.

THESE FORMS ARE AVAILABLE AT THE COURT.

If you have any questions, you may call the Oregon State Bar tape library at 1-800-452-4776, or you may wish to call an attorney.