

Surviving a Down Market



This column is the fifth in a series that will answer the most pressing questions we receive from members struggling to stay afloat.

PROTECT

MARKET

CONSTRUCT

Q I'm having trouble collecting money from some customers, but I can't afford to hire an attorney. Is there any way I can successfully represent myself in court?

A: Yes. You can represent yourself—and win. Below is a short description of how to file and argue a case in small claims court.

Save Time and Money

Small claims court should always be considered if the amount owed to your company is \$5,000 or less. After filing your claim in small claims court, you will wait approximately three months for trial versus a year or more in superior court. No attorneys are allowed in small claims court, which means you save the costs of paying for an attorney, and you don't have to worry about facing an opposing attorney. Also, the filing fee is between \$14 and \$29, depending on the county, as opposed to a \$200 filing fee in superior court.

Filing and Serving Your Claim

Each county in Washington has at least one district court. Small claims court is a division of district court. The lawsuit must be filed at the district court in the county of the defendant's residence. If the defendant is a corporation or LLC, the residence is the location of company's principal place of business. After determining proper venue, next prepare a Notice of Small Claim form. The district court clerk (or the district court's website) will give you forms and general information about the process. Serving the claim form on the defendant can be accomplished by any of the following: (1) sheriff's office; (2) process server; (3) any person of legal age (18) who is not connected with the case either as a witness or as a party; or (4) by mailing copies of the summons and complaint to the defendant by registered or certified mail with a return receipt requested. The Notice of Small Claim must be served on the defendant not less than ten (10) days before the first hearing. A return of service, or mail return receipt bear-

ing the defendant's signature, must be filed at or before the time of the first hearing. You cannot personally serve the claim.

Preparing for Trial

Collect all papers, photographs, receipts, estimates, canceled checks, or other documents that concern the case. If you anticipate certain facts being contested by the defendant, consider bringing a witness with you to the trial to testify on your behalf. Write a timeline of events and the relevant facts in your case. This will help you to organize your thoughts and to make a clear presentation of your story to the judge.

Arguing Your Case

Although in a courtroom, presenting your case to the judge is an informal process. The judge will ask each of you to describe your situation and ask questions during your presentation. Be clear, concise, and use the supporting documentation you gathered. You can expect the judge to issue an immediate decision.

What if the Defendant Does Not Appear for Trial?

This happens more often than you might think. It's like the referee blowing the whistle to start the game but the other team isn't there. You can't lose. All you have to do is present the court with evidence that the defendant was properly served with a copy of the complaint (such as certified mail receipt) and present minimal evidence to make the judge comfortable that you are not fraudulently inventing the claim.

Next Month: I won my case, but he still won't pay...what do I do? 🏠