

**SUPERIOR COURT  
OF THE  
DISTRICT OF COLUMBIA**

**CIVIL DIVISION  
SMALL CLAIMS AND CONCILIATION BRANCH  
INFORMATION HANDBOOK**

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## Contents

INTRODUCTION .....	3
DO I NEED A LAWYER TO HELP ME WITH MY SMALL CLAIMS CASE? .....	4
HOW DO I FILE A LAWSUIT IN THE SMALL CLAIMS CLERK'S OFFICE? .....	5
THE STATEMENT OF CLAIM .....	5
THE CASE INFORMATION FORM .....	6
WHERE TO FILE DOCUMENTS AND HOURS OF OPERATION .....	7
COURT COSTS .....	7
HOW CAN I SERVE THE STATEMENT OF CLAIM ON THE DEFENDANT(S)? .....	8
TIME PERIOD FOR SERVICE .....	8
METHODS OF SERVICE .....	8
SERVICE UPON SPECIFIC DEFENDANTS .....	9
FILING PROOF OF SERVICE .....	11
DISMISSAL FOR FAILURE TO SERVE DEFENDANT .....	12
HOW DO I ADD A PARTY TO MY CASE? .....	12
DO I NEED TO FILE AN ANSWER? .....	12
HOW DO I FILE A CLAIM AGAINST THE PLAINTIFF? .....	12
CAN MY CASE BE HEARD BY A JURY? .....	13
HOW DO I FILE A MOTION? .....	13
HOW DO I MAKE A REQUEST TO CONTINUE MY INITIAL HEARING? .....	14
HOW DO I PREPARE FOR COURT? .....	15
WHAT SHOULD I DO IF THE CASE SETTLES BEFORE THE COURT DATE? .....	15
WHAT HAPPENS AT THE INITIAL HEARING? .....	16
AFTER THE TRIAL .....	17
WILL MY COURT COSTS AND INTEREST BE INCLUDED IN MY JUDGMENT? .....	17
WHAT CAN I DO IF I LOSE? DEFAULT/DEFAULT JUDGMENT FOR FAILURE TO APPEAR .....	18
NEW TRIAL AND AMENDMENT OF JUDGMENT .....	18
STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT .....	19
APPEAL FROM A TRIAL .....	19
HOW DO I COLLECT MY MONEY JUDGMENT? .....	19
CERTIFIED COPY OF THE JUDGMENT .....	19
WRIT OF ATTACHMENT .....	20
SUBPOENA FOR ORAL EXAMINATION .....	20
WRIT OF FIERI FACIAS .....	20
TRUE TEST COPY OF THE JUDGMENT FOR RECORDING WITH THE RECORDER OF DEEDS .....	20
TRIPLE CERTIFICATE .....	20
FOREIGN JUDGMENT .....	21
STAFF DIRECTORY .....	23
Zabrina Dempson, Esq. ....	23
Vacant .....	<b>Error! Bookmark not defined.</b>
Barbara Cain .....	23
Derrick Monroe .....	23
Joy Jefferson .....	23
LaShaye White .....	23

## INTRODUCTION

As the D.C. Superior Court improves court services and access, judges and court personnel in the Civil Division understand the need to give court users important information about procedures in small claims cases. This need is greatest among parties who do not have lawyers—*pro se* litigants. In order to do this, the "Small Claims and Conciliation Branch Handbook" is written in 'layman's terms' to help people with small claims cases.

This handbook gives a short description of the D.C. Superior Court Rules of Civil Procedure (SCR-Civ) for the Small Claims and Conciliation Branch. The handbook has information on:

- ❖ Filing and serving a small claims complaint (called a statement of claim) and papers that are filed after that;
- ❖ The first court date when the parties appear before the judge (called the initial hearing);
- ❖ Alternative dispute resolution (also known as mediation);
- ❖ The trial when the parties give their evidence to the judge and what happens after the trial.

The appendix also includes a list of court fees. You can get to the Civil Division's website by clicking on this link [http://www.dccourts.gov/internet/public/aud\\_civil/main.jsf](http://www.dccourts.gov/internet/public/aud_civil/main.jsf). You can also find the small claims and civil rules on this part of the Court's website. Many of the civil rules apply in small claims cases. Please see Small Claims Rule 2 for a list of the civil rules that apply in small claims cases. You may view case docket information (the court's official record of filings and hearings in a case) via the internet at [www.dccourts.gov/pa](http://www.dccourts.gov/pa)

## DO I NEED A LAWYER TO HELP ME WITH MY SMALL CLAIMS CASE?

The Small Claims Branch is less formal than other branches of the Court. The procedures are simple and costs kept low so that most people do not need a lawyer to represent them in their small claims case.

You must be 18 years old to file a case. Someone who is under the age of 18 or an incompetent person can only sue through a representative or next friend. An “incompetent person” is someone who a judge believes cannot make legal decisions for him or herself. A “representative or next of friend” is a person acting for the minor child or incompetent person. A business that files a claim in the Small Claims Branch must have a lawyer.

Sometimes cases can be hard to understand, and a lawyer may be able to tell you about the legal process and your legal rights, and help you follow the court's procedures.

- ❖ There is a Consumer Law Resource Center and a Small Claims Resource Center located in Room 102, Court Building B (510 4<sup>th</sup> Street, N.W.). The lawyers there can help you with legal and court information and tell you about other groups that may be able to help you with your case. Please call the Small Claims Branch Clerk’s Office at (202) 879-1120 for the hours of operation for the resource center.
- ❖ If you cannot pay for a lawyer, there are groups that can give free legal help to parties. You may be able to get free legal help by going to <http://www.lawhelp.org/dc>. This website was made by the D.C. Bar Pro Bono Program to help *pro se* parties:
- ❖ The Small Claims Branch Clerk’s Office in Court Building B, Room 120 can give you a list of these groups. The list is also given at the end of this handbook.

If you want any legal help, it is best to ask for it before or right after filing your statement of claim to be prepared for the hearing date. Please note that court employees cannot give legal advice.

If you choose not to talk to a lawyer, the magistrate judge will expect you to know the small claims procedures and rules, even though you are not a lawyer. You could lose a case simply by not keeping up with deadlines for filing papers on time with the court or if you miss court hearings.

## HOW DO I FILE A LAWSUIT IN THE SMALL CLAIMS CLERK'S OFFICE?

### THE STATEMENT OF CLAIM

You start a case by filing a statement of claim in the Small Claims Clerk's Office. The Small Claims Clerk's Office is located in Court Building B, 510 4<sup>th</sup> Street, NW, Room 120. The party who files the case is called the plaintiff. The defendant is the person who is being sued. The statement of claim is a document that explains why the plaintiff believes the defendant owes the plaintiff money.

A defendant can be sued in the Superior Court of the District of Columbia if the defendant is:

- ❖ A person who lives or does business in the District of Columbia;
- ❖ A business based in the District of Columbia;
- ❖ A person with a regular place of business in the District of Columbia;
- ❖ A person who has business contracts in the District of Columbia;
- ❖ A person who harms someone else in the District of Columbia by doing something outside the District of Columbia if he or she regularly does or seeks business, takes part in any other regular activities or makes a lot of money from goods or services in the District of Columbia;
- ❖ A person who has the right to use or have real property in the District of Columbia; or
- ❖ A person who agrees to insure or act as surety for any person, property, risk, contract, obligation or agreement made, signed or to be carried out within the District of Columbia at the time of the agreement, unless the parties agreed otherwise. A "surety" is a person who is responsible for the actions of another person to help them get something. See D.C. Code §§ 13-422, 13-423.

**You can file a lawsuit in Small Claims Court if the amount of money you are suing for is \$10,000.00 or less and you are only suing for money.** If you are suing for more than \$10,000 or asking the Court to order someone to do something or stop doing something, then you must file your case with the Civil Actions Branch (500 Indiana Avenue, Room 5000). If you want more information about the Civil Actions Branch, you may call (202) 879-1133.

#### **The plaintiff must give the Small Claims Clerk's Office:**

1. An original statement of claim that has the name(s) and address(es) of the plaintiff(s) and defendant(s), Information sheet, a confidential form (optional); and
2. One copy of the original statement of claim for *each* defendant.

The statement of claim must have a simple but complete statement of why the plaintiff is suing the defendant. It should give any dates and places that are important to the claim. The plaintiff must also include a copy of any contract, promissory note, or other document that is important to the claim.

All plaintiffs must sign the statement of claim, including *pro se* plaintiffs (parties who do not have a lawyer) and give their address and telephone number. Signatures must be handwritten. A plaintiff cannot use a rubber stamp as a signature. Superior Court Rules of Civil Procedure 11 (SCR-Civ.11). If the statement of claim is not notarized, you must bring picture identification (ID) to the Small Claims Clerk's Office to have the statement of claim verified by a clerk.

You can get statement of claim forms from the Small Claims Clerk's Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>. You can also get a sample statement of claim form in the Small Claims Clerk's Office and on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>.

### THE CASE INFORMATION FORM

The plaintiff must also complete and file a small claims information form. The small claims information form lists the different types of small claims cases and different sums of money that plaintiffs may be trying to win. Plaintiffs should check the box next to the right type of case (for example, breach of contract, personal injury) and the sum of money for which they are suing. If known, plaintiffs must also note if they or the defendant needs an interpreter and if they are suing a healthcare provider. **If you are suing a healthcare provider, you must give the healthcare provider notice that you are going to file a suit 90 days prior to filing a statement of claim. D.C. Code § 16-2802.**

You can get the small claims information and confidential form from the Small Claims Clerk's Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>. You can also get a sample small claims information form in the Small Claims Clerk's Office and on the internet at <http://www.dccourts.gov/internet/formlocator.jsf> to help you fill yours out. You must give the clerk the original small claims information form.

A clerk will review the statement of claim and the small claims information form to make sure they are complete. If the clerk accepts the statement of claim, he or she will verify, sign, date and seal the statement of claim. A clerk for the Small Claims Branch will give your case a number and write it on the statement of claim and small claims information form. **This case number is very important because you will need it to find out information about your case or when filing new documents.** After the clerk processes the statement of claim and other documents, he or she will scan it into our online database, the Integrated Justice Information System (IJIS). After you pay your court fees, the clerk will give you the original documents to hold on to and bring to your court hearing. **Anyone can view case docket information on the internet at [www.dccourts.gov/pa](http://www.dccourts.gov/pa).**

**The clerk will set a hearing date when the plaintiff files the statement of claim. The hearing date is scheduled 21 to 30 days from the date of filing.** The clerk will write the hearing date on the bottom of the statement of claim.

## WHERE TO FILE DOCUMENTS AND HOURS OF OPERATION

All documents may be filed Monday through Friday from 8:30 a.m. to 5:00 p.m., Wednesdays from 6:30 p.m. to 8:00 p.m., Saturdays from 9:00 a.m. to 12:00 p.m. in the Small Claims Clerk's Office, Court Building B, Room 120, or at any time in the deposit box provided for civil filings in the first floor lobby of the Moultrie Courthouse (500 Indiana Avenue, N.W.). You can also mail your documents to the Small Claims Clerk's Office at 510 4<sup>th</sup> Street, NW, Room 120, Washington, DC 20001. The Court is not responsible for any lost valuables or documents. You should not leave cash with your documents. You should check with the Small Claims Clerk's Office the following business day to make sure your documents have been received by the Small Claims Clerk's Office. The people who work at the Moultrie Courthouse first floor information booth window will not be able to answer any questions about how to file documents with the Small Claims Branch. You may call the Small Claims Clerk's Office general information number at (202) 879-1120 during regular business hours if you need more information.

## COURT COSTS

### ❖ Filing Fees for New Cases

The cost for filing a new statement of claim is \$5.00 for claims of \$500.00 or less, \$10.00 for claims over \$500.00 and up to \$2,500.00, and \$45.00 for claims over \$2,500.00 and up to \$10,000.00. The plaintiff must also pay the cost for service on the defendant(s). Please see the attached list on page 20 for the cost for service on the defendant.

### ❖ Forms of Payment

**ALL FILING FEES MUST BE PAID BY CASH, CREDIT CARD, MONEY ORDER OR CASHIER'S CHECK.** Members of the D.C. Bar and approved private process servers may pay filing fees by personal check. Money orders or cashier's checks should be made payable to: "The Clerk, D.C. Superior Court."

### ❖ Waiver of Prepayment of Filing Fees

If you cannot afford to pay the filing fees, you can ask the court to waive them. You must complete and file a motion to proceed without prepayment of costs, fees, or security. A judge will rule on the motion on the date of filing. See SCR- Civ. 54-II. You can find a form for this motion in the Small Claims Branch Clerk's Office and on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>.

## HOW CAN I SERVE THE STATEMENT OF CLAIM ON THE DEFENDANT(S)?

### TIME PERIOD FOR SERVICE

“Service of process” is how each defendant is given a copy of the statement of claim and supporting documents. You must serve most Small Claims Branch statement of claims upon the defendant(s) within sixty (60) days of filing the original statement of claim. In collection and subrogation cases only, you have 180 days to serve the defendant(s).

Collection cases are those in which the plaintiff is suing to get back a debt owed that is \$10,000.00 or less. Subrogation cases are car accident cases where an insurance company, on behalf of the insured, is trying to get monetary damages of \$10,000.00 or less. Collection and subrogation cases where a party is suing for more than \$10,000.00 should be filed in the Civil Actions Branch. The initial hearings for all collection and subrogation cases are scheduled on Wednesdays.

The defendant *must* be served before the scheduled court date in order for the Court to hear the case. **All parties must call the Small Claims Clerk’s Office at (202) 879-1120 two business days before the court date to find out if the case will be heard on the scheduled court date.** In all cases, the plaintiff may file a motion for an extension of time for service. However, the plaintiff must file the motion for extension of time before the end of the 60 day period for service of process for all other cases or the 180 day period for service of process in subrogation and collection cases. Each filing period begins when the plaintiff files a statement of claim with the Court. If the defendant is not served within the proper time frame, the case will be dismissed. See SCR-SC 4(f).

### METHODS OF SERVICE

There are two ways to serve a defendant: process server or certified/registered mail. They can be used at the same time or one after another.

#### ❖ Process Server

**Any person may serve process for the plaintiff, as long as he or she is not a party to the case, is 18 years of age or older, and is a resident of or has a regular place of business in the District of Columbia. The person does not need to be a professional process server. The plaintiff must pay for a special process server to be approved if they want to use one. The Small Claims Clerk’s Office cannot give names of professional process servers.**

If the plaintiff is using a special process server to serve the defendant, he or she must file an application for approval of special process server with the Small Claims Clerk’s Office. Please see the attached list on page 20 for the cost to file an application for approval of special process server. Plaintiffs must list the proper name(s) of the individual(s) serving the documents. Plaintiffs may list as many people’s names as they wish. If the special process server serves the statement of claim on the defendant before the Small Claims Clerk’s Office approves the special process server, service will not be valid, and the plaintiff will have to serve the defendant again.

If a special process server is used to serve the named defendant(s), a notarized affidavit must be filed with the Small Claims Clerk's Office at least five business days before the scheduled court date. The affidavit must state the case name and number, the process server's name and home or business address, the time and place of service, and the fact that he or she is 18 years of age or older.

If the documents were served directly to the defendant, the affidavit must also state that a copy of the statement of claim with supporting documents was personally served upon the named defendant(s).

If service is made to a person other than the named defendant(s), the process server must write enough facts in the affidavit for the Court to approve service of the documents on the person who received service. For example, the affidavit must state that a copy of the statement of claim with supporting documents was given to an adult at the individual's home or usual place of abode who also lives in the home. If the process server served an agent of the defendant, the affidavit must state that a copy of the statement of claim with supporting documents was given to an agent authorized to receive service of process. The specific name of the person who received the documents must be listed on the affidavit.

**You can get an affidavit of service from the Small Claims Clerk's Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>.**

#### **❖ Certified or Registered Mail**

You may also serve the defendant(s) by certified or registered mail, return receipt requested, with or without restricted delivery. See SCR-SC 4(a) (3). Restricted delivery is a service offered by the United States Postal Service to deliver the mail only to the named person listed on the certified mail card and receive a signature from that person. Restricted delivery costs more money than regular delivery. Only the Small Claims Clerk's Office can mail the statement of claim with supporting documents by certified or registered mail. Please see the list on page 20 for the cost to serve the defendant by certified or registered mail with or without restricted delivery.

If service of process by certified or registered mail does not work, then the plaintiff may need to try to serve the defendant by a special process server. The plaintiff may also need to file a motion for extension of time to serve the defendant.

### **SERVICE UPON SPECIFIC DEFENDANTS**

#### **❖ Service upon a Corporation or Association, including a Partnership or other Unincorporated Association**

Service of process upon a domestic or foreign corporation within the United States must be completed by following the laws of the state where you serve the corporation. A "domestic corporation" is a business incorporated in the District of Columbia. A "foreign corporation" is a business incorporated in another state, territory or country. In the District of Columbia, you can

deliver the documents to a person authorized to accept service for that corporation, such as an officer, managing agent or general agent. See SCR-Civ. 4(h) (1). Some states require that you mail the documents directly to the corporation even when you personally serve an authorized agent.

A partnership (an association of two or more persons who, as partners, carry on a business for profit) or unincorporated association (voluntary group of persons without a charter formed to promote a common goal) cannot be served in the same manner as a corporation. Instead, each partner that you wish to sue must be served individually.

To find out who is an authorized agent for service on behalf of a corporation, you should call the D.C. Department of Consumer and Regulatory Affairs, Corporate Division at 202-442-4400 or 202-442-4432 between 8:30 a.m. and 4:30 p.m., visit them at 1100 4<sup>th</sup> Street, SW, Washington, DC 20024 on Monday, Tuesday, Wednesday and Friday between 8:30 a.m. and 4:30 p.m. and Thursday between 9:30 a.m. and 4:30 p.m. or search their website at <https://lsdbe.dslbd.dc.gov/public/certification/search.aspx>.

#### ❖ **Service upon the United States and its Agencies**

*Service upon the United States and its agencies must be done by serving:*

- The United States Attorney for the District of Columbia;
- An Assistant United States Attorney;
- A clerical employee designated by the United States Attorney in a writing filed with the clerk of the Court.; or
- The civil process clerk at the Office of the United States Attorney. The address for the civil process clerk is United States Attorney Office, 555 4<sup>th</sup> Street, N.W., Washington, D.C. 20530.

**The Attorney General of the United States in Washington, D.C. must also be served with a copy of the statement of claim and supporting documents.** The address for the Attorney General of the United States is Department of Justice, Room B-103, 950 Pennsylvania Avenue, Washington, D.C. 20530-0001. See SCR-Civ. 4(i) (1) (A) and (B).

#### ❖ **Service upon the District of Columbia and its Officers or Agencies**

*Service upon the District of Columbia and its officers or agencies must be served on:*

- The Mayor of the District of Columbia (or a designee); and
- The Attorney General for the District of Columbia (formerly the “Office of the Corporation Counsel of the District of Columbia”).

To find out who is authorized to accept service of process for the Mayor, you should call (202) 727-7306. For the Office of the Attorney General for the District of Columbia, you should call (202)

727-6295. The address for the Office of the Attorney General for the District of Columbia is 441 4<sup>th</sup> Street, N.W., 6<sup>th</sup> Floor South, Washington, D.C. 20001.

## **FILING PROOF OF SERVICE**

**All small claims cases are scheduled for a hearing 21 to 30 days from the date the plaintiff files his or her statement of claim. If the defendant is served by special process server, an affidavit of service must be filed five business days before the scheduled court date.** The affidavit must state the case name and number, the process server's name and home or business address, the time and place of service, and the fact that he or she is 18 years of age or older. The affidavit must also state that a copy of the statement of claim with supporting documents was personally served upon the named defendant(s).

If service is made to a person other than the named defendant(s), the process server must write enough facts in the affidavit for the Court to approve service of the documents on the person who received service. For example, the affidavit must state that a copy of the statement of claim with supporting documents was given to an adult at the individual's home or usual place of abode who also lives in the home. If the process server served an agent of the defendant, the affidavit must state that a copy of the statement of claim with supporting documents was given to an agent authorized to receive service of process. The specific name of the person who received the documents must be listed on the affidavit.

You can get an affidavit of service from the Small Claims Clerk's Office, Court Building B, Room 120 or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>.

**If the defendant is served by certified or registered mail, the green return receipt card must be received by the Small Claims Clerk's Office from the U.S. Postal Service at least five business days before the scheduled court date. The parties should call the Small Claims Clerk's Office ((202) 879-1120) two business days before their scheduled court date to confirm that service has been filed.**

If proof of service is not filed in the Small Claims Clerk's Office five business days before the court date, the case will not be heard by the Court on its scheduled date. If the defendant is not served prior to the court date, the plaintiff must file an alias notice of statement of claim also known as a 'Reissue', to get a new court date and serve the defendant before the new court date. An alias notice of statement of claim is a request to the Small Claims Clerk's Office to reissue the original statement of claim because service was not possible before the scheduled court date. The cost to file an alias notice of statement of claim is \$5.00, unless the fee is waived by the judge.

If the plaintiff is able to serve the defendant prior to the court date, but does not file proof of that service five business days before the court date, the plaintiff can request a new court date without having to serve the defendant again (also known as a 'Reset'). The Small Claims Clerk's Office will send the plaintiff and defendant notice of the new court date.

## **DISMISSAL FOR FAILURE TO SERVE DEFENDANT**

Nevertheless, if proof of service is not filed within 60 days after the filing of the statement of claim for most small claims cases or 180 days after the filing of the statement of claim for collection and subrogation cases, the statement of claim will be dismissed by the clerk pursuant to SCR-SC 4(f). An alias notice of statement of claim *does not* extend the time limit for dismissing the case pursuant to SCR-SC 4(f). In all cases, you must file a motion for an extension of time for service of process on the defendant before the period for service expires.

If the plaintiff's case is dismissed for failure to serve the statement of claim on the defendant(s), a Motion for Reinstatement of the case may be filed. You must file the motion in the Small Claims Clerk's Office and pay a \$10.00 fee, unless your costs have been waived by the Court. See page 6 for more details about fee waivers.

### **HOW DO I ADD A PARTY TO MY CASE?**

If you think that another party needs to be added to your case so that the judge can hear all relevant issues, you must comply with Superior Court Rules 14 or 19 and the person(s) must be served within 100 miles from the place of the hearing or trial. SCR-Civ. 4(k) (1) (B).

You may want to get help with adding a party to your case.

- ❖ There is a Consumer Law Resource Center and a Small Claims Resource Center located in Room 102, Court Building B (510 4<sup>th</sup> Street, N.W.). The lawyers there can help you with legal and court information and tell you about other groups that may be able to help you with your case. Please call the Small Claims Branch Clerk's Office at (202) 879-1120 for the hours of operation for the resource centers.
- ❖ If you cannot pay for a lawyer, there are groups that can give free legal help to parties. You may be able to get free legal help by going to <http://www.lawhelp.org/dc>. This website was made by the D.C. Bar Pro Bono Program to help *pro se* parties:
- ❖ The Small Claims Branch Clerk's Office in Court Building B, Room 120 can give you a list of these groups. The list is also given at the end of this handbook.

### **DO I NEED TO FILE AN ANSWER?**

In most small claims cases, defendants are not required to file an answer, plea, or other defense(s) in writing. Instead, defendants can just tell the judge why they disagree that they owe some or all of the money the plaintiff is suing for when they are in court.

### **HOW DO I FILE A CLAIM AGAINST THE PLAINTIFF?**

If a defendant wants to file a claim against the plaintiff in the same case, a written set-off or counterclaim must be filed, pursuant to Superior Court Rule for Small Claims 5.

A *set-off* is a separate claim that the defendant has against the plaintiff that can be used to reduce the amount of money the defendant owes the plaintiff. If the defendant wins the set-off, the

amount of money the defendant wins will be subtracted from any money the defendant owes the plaintiff. If the amount of the set off is bigger than the amount of the plaintiff's claim, the plaintiff is not required to pay any money to the defendant at the end of the case. If the defendant wants to be able to collect money from the plaintiff, the defendant must file a counterclaim. There is no filing fee for a set-off.

A *counterclaim* is a separate claim that the defendant has against the plaintiff. With a counterclaim, the defendant can get a judgment against the plaintiff for money the plaintiff owes the defendant. A counterclaim form can be obtained from the Small Claims Clerk's Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>. The cost to file a counterclaim is \$10.00, unless the fee is waived by the judge.

### **CAN MY CASE BE HEARD BY A JURY?**

Any party can make a request to have their case heard by a jury. The request must be in writing and signed. The written request must be filed with the Small Claims Clerk's Office before the first court date. The Court may extend the time to file the request for a jury demand upon request by the party.

If the defendant wants to request a jury trial, a verified answer requesting the case to be heard by a jury must be filed on or before the first court date. A "verified answer" is an answer that the defendant has sworn to in front of a clerk or notary public.

After a jury demand is made, the case will no longer be heard in the Small Claims Branch. The case will be assigned to an Associate Judge in the Civil Division of Superior Court. In jury demand cases, however, all documents must be filed with the Small Claims Clerk's Office. The case type will change when a jury demand is filed. For example, case number 01 SC2 0003 will change to 01 SCJ 0003. There is a \$75 fee for filing a jury demand, unless the fee is waived by the judge.

### **HOW DO I FILE A MOTION?**

A party can ask the judge to make a ruling or order something to be done by filing a written motion or making an oral motion in court during the trial or hearing. Usually, one side files a motion, the other side files a written response, and the court holds a hearing, where the parties give brief oral arguments. If a motion is based upon facts that are not clear to the judge from the documents previously filed by the parties, it must be in writing and filed with an affidavit or sworn testimony of the person filing the motion, his agent, or some other competent person. The motion must state the full facts upon which it is based.

All motions and related papers must be on 8-1/2 x 11-inch white paper and signed by the filing party with his or her addresses and telephone number. See SCR-Civ. 10-I. A motion form can be obtained from the Small Claims Clerk's Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>. If you do not use the motion form provided by the Small Claims Clerk's Office, the motion must contain a case caption at the top of the paper and the statement, "THIS MOTION HAS BEEN SET FOR HEARING IN SMALL CLAIMS COURT ON

\_\_\_\_\_ [date] At \_\_\_\_\_ [time],” The clerk will insert the date and time of the motion hearing at the bottom of the motion.

The Small Claims Clerk’s Office will send notice of motions filed by any party who does not have a lawyer to the opposing party by regular mail. If a party has a lawyer, the lawyer must serve the motion on the opposing party and file an affidavit of service with the Small Claims Clerk’s Office pursuant to SCR-Civ. 5.

The filing fee for motions is \$10.00, except a motion to reinstate after dismissal under Rule 41-I, which is \$25.00, unless the fee is waived by the judge. Parties may pay filing fees by cash, money order, or cashier’s check. Lawyers who are members of the D.C. Bar and approved special process servers may pay filing fees by personal check. If you cannot afford to pay the filing fees, you can file a Motion to Proceed without Prepayment of Costs, Fees, or Security. The judge will decide if you will be allowed to file without paying the filing fees.

### **HOW DO I MAKE A REQUEST TO CONTINUE MY INITIAL HEARING?**

#### **❖ Both Parties Agree to Continue the Case**

A party can call the Small Claims Clerk’s Office at (202) 879-1120 to request a continuance of the initial hearing. A continuance, if granted, will delay the initial hearing until a future date. You must first call the other party and try to agree to change the date. If both parties agree on a new date, a praecipe (an official form used to request the clerk or court to perform an act) to continue the case must be filed in the Small Claims Clerk’s Office. The praecipe must request that the clerk continue the initial hearing to a specific date within 21 to 30 days and note that all parties have agreed to change the date of the hearing. The praecipe must be signed by all *pro se* parties and at least one lawyer, if a party has a lawyer. The parties can agree to continue the case only one time. You can get a praecipe form in the Small Claims Clerk’s Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>. The clerk will mail a notice with the new hearing date to all parties.

#### **❖ One Party Requests to Continue the Case**

If the parties cannot agree to change the date of the hearing to another date, a party may still ask the Court to continue the initial hearing if he or she cannot go to court on the initial hearing date. The Clerk will enter the request to continue the case in the Court’s official records and the judge will consider the request on the scheduled hearing date. The requesting party should contact the Small Claims Clerk’s Office at (202) 879-1120, two business days after the scheduled court date to find out if the request was granted. If the case is continued, the Court will mail all parties a notice of the new court date. If the case is not continued, the Court will mail or give the Court’s order to all parties. You should only use this process if you cannot go to court on the court date. If you do not go to court on the scheduled hearing date, you may lose the case just because you are not there, even if you have asked for a continuance. If you just need more time to get ready for your case, you should go to court and ask the judge *in person* for more time.

## HOW DO I PREPARE FOR COURT?

### ❖ Witnesses

All parties can bring witnesses (people who have first-hand knowledge of the case) to court to testify under oath at the hearing. If a witness will not agree to appear in court, the Court can issue a subpoena ordering the person to show up in court or give the Court documents that support the case. The subpoena must be served on the witness by a process server. The process server does not have to be approved by the Small Claims Clerk's Office but must be over the age of 18 and cannot be a party to the case. The subpoena can be served in the District of Columbia or within 25 miles of the Court. If the Court issues a subpoena for a person to come to court, the requesting party must pay a witness fee of \$42.00, made payable to the witness. The requesting party may also have to pay the witness travel costs. A witness fee is not required if the subpoena is issued on behalf of the United States or the District of Columbia or its officers or agencies. See SCR-Civ. 45(b). If your costs have been waived by the Court, you do not need to pay the witness fee when the subpoena is served. Instead, attach a copy of the order allowing you to proceed without prepayment of costs, fees, or security. See page 6 for more details about fee waivers.

### ❖ Documents

All parties should bring to court, documents (contracts, receipts, promissory notes, letters, canceled checks, pictures or other written material) or other proof that relate to the case and all court documents filed in the Small Claims Clerk's Office. A subpoena can also be issued to order a person to bring documents to court. There is no filing fee to issue a subpoena to a witness or to request documents.

The subpoena should be issued well before the hearing date so there is time to serve it. Proof of service of the subpoena should be filed in the Small Claims Clerk's Office, noting the manner of service, name of the person served and signed by the person who made the service, five business days before the court date. The proof of service is on the back of the subpoena form.

## WHAT SHOULD I DO IF THE CASE SETTLES BEFORE THE COURT DATE?

If the parties reach an agreement or settlement out of court prior to the court date, the plaintiff must file a praecipe (an official form used to request the clerk or court to perform an act) asking the Court to dismiss the statement of claim and mark the case as settled. If the defendant has filed a counterclaim or other action, the defendant must also file a praecipe to dismiss his or her claim and mark the case as settled. The parties may also file their settlement agreement with the Court. Praecipes are available in the Small Claims Clerk's Office or on the internet at <http://www.dccourts.gov/internet/formlocator.jsf>.

## **WHAT HAPPENS AT THE INITIAL HEARING?**

### **CALENDAR CALL**

All cases are scheduled for an initial hearing at 9:00 a.m. except subrogation cases, which are scheduled for 10:00 a.m. Some motion hearings are scheduled for 10:00 a.m. and trials are scheduled for 11:00 a.m.

Before entering the courtroom, parties should check the court docket located in the box outside the courtroom to see if their case is scheduled to be heard. Remember, if the proof of service is not filed in the Small Claims Clerk's Office five business days before the court date, the case will not be on the Court's calendar or docket for that day. If the case is not on the Court's docket, the parties should go to the Small Claims Clerk's Office to find out what happened to the case. If the case is on the Court's docket, the parties should go sit in the courtroom.

At the beginning of each session, the courtroom clerk calls all cases on the calendar to determine if any parties are not there. All parties should answer loudly when their case is called and say if they are a plaintiff, defendant or witness. After the clerk finishes the calendar call, he or she will help people who have further questions. If a party's case is not called by the courtroom clerk, please let him or her know right away.

If the plaintiff is present and the defendant is not, the Court may enter a default judgment or 'default subject to ex parte proof' (a default judgment that is subject to a hearing held for proof of damages to be presented by the plaintiff) against the defendant. If the plaintiff is not present without prior notice to the Court, the Court may dismiss the case. The courtroom clerk will prepare a judgment order or order of dismissal for the judge's signature and hand it or mail it to the parties.

After the judge takes the bench, the courtroom clerk will call the cases that are ready to be heard by the judge. All cases in which both parties are present will go to mediation prior to having a trial on the merits of the case.

### **MEDIATION**

Mediation is used by the Court to allow parties the opportunity to settle their differences without going to trial.

All cases are scheduled for mediation prior to going to trial in an effort to help the parties settle their differences. A trained mediator is assigned to the case to help the parties settle their differences. In the mediation session, the mediator helps the parties explain their arguments and discusses possible solutions or settlements. Everything discussed in mediation is confidential.

If an agreement is reached in mediation, the mediator will write the settlement terms on a praecipe (an official form used to request the clerk or court to perform an act). All parties will sign the settlement agreement, and it will be filed with the courtroom clerk.

If no agreement is reached in mediation, the mediator will tell the courtroom clerk. The parties must go back to the courtroom to sit and wait for their case to be called.

## **TRIAL**

The Court makes every effort to have the trial on the first court date. However, there are situations that will require the Court to continue or postpone the trial of the case to another court date. If your trial is continued, the Court will attempt to reschedule the day of the trial on a day that is convenient for all parties.

The courtroom clerk will call all cases that are scheduled or ready for trial. When your case is called, you must respond and then walk into the well (open space in front of the courtroom staff). Defendants should stand at the table to their left and plaintiffs should stand at the table to their right. All hearings are audio recorded. You must speak clearly and loudly when talking to the judge or courtroom staff and when presenting evidence.

If you are the plaintiff, you have the first chance to give the Court testimony and evidence for your case. In most instances, in order to win, you must prove your claim by a preponderance of evidence, which means that you must make the judge believe that your claim is "more likely than not" true.

If you are the defendant, you will have a chance to question the plaintiff and his or her witnesses (cross-examination). Your questions should focus on the issues raised by the plaintiff and show why his or her claims are not true. After cross-examination of the plaintiff and his or her witnesses, you may tell your side of the story, show any important evidence, and have your witnesses testify. The plaintiff may then ask questions to you and your witnesses.

If you are the defendant and filed a counterclaim against the plaintiff, you will then have a chance to give the Court testimony and evidence for your counterclaim. In most cases, you must prove your counterclaim by a preponderance of evidence. The plaintiff will then have a chance to question you and your witnesses (cross-examination). Then, the plaintiff may present evidence to the Court to contest your counterclaim. You may then ask questions to the plaintiff and his or her witnesses.

## **AFTER THE TRIAL**

After the Court has heard all of the testimony in a trial, the judge will give his or her decision and issue a written order. That order will explain which party has won the case and the amount that they won, if any. If the judge chooses not to make a decision right after the trial, the parties will be told.

### **WILL MY COURT COSTS AND INTEREST BE INCLUDED IN MY JUDGMENT?**

#### **❖ Award of Costs**

The judge decides if one party must pay the costs of the lawsuit for the other party. Your judgment can include fees paid to the Marshal and the Court. Your judgment will not include fees paid to the special process server to serve the defendant. See SCR-SC 15(a).

## ❖ Award of Interest

Certain judgments include payment of interest on the amount owed. See D.C. Code § 15-109. The judgment interest rate is the legal or statutory rate of interest, unless the claim is based on a contract that states another rate. The legal or statutory interest rate is available in the Small Claims Clerk's Office (Court Building B, Room 120) and on the internet at <http://www.dccourts.gov/internet/documents/InterestRateSchedule.pdf>. Judgments against the District of Columbia or its employees or officers can not include an interest rate of more than 4% per year. If the action is based on a contract, the judgment interest rate is the rate stated in the contract, from the date it was due and payable, until paid. See D.C. Code §§ 28-3302 and 15-108.

## WHAT CAN I DO IF I LOSE?

### DEFAULT/DEFAULT JUDGMENT FOR FAILURE TO APPEAR

If you are the losing party because the Court issued a default or default judgment, you may file a motion to vacate the default or default judgment. The Court issues a default judgment when you do not show up at your court date.

If your wages and/or bank accounts or other properties have been “attached,” (seized or taken because of a court order) and you want to get back your property, you may file a motion to quash the writ of attachment. This motion can be added to the motion to vacate the default judgment.

If your social security benefits, supplemental security income, veteran's benefits, retirement or pension funds, unemployment benefits, worker's compensation funds, public assistance, child support or alimony funds, disability benefits or other funds that by law should not be attached, you can file a motion to have these funds released. The hearing on this motion can be scheduled 11 to 14 days after filing the motion. The motion for claim of exemption is available in the Small Claims Clerk's Office and on the internet at <http://www.dccourts.gov/internet/documents/MotionForExemption.pdf>. You should also read the notice to debtor of non-wage garnishments and exemptions located in the Small Claims Clerk's Office and on the Court's website at <http://www.dccourts.gov/internet/documents/NoticeOfExemptionBeforeNewRule.pdf>.

These motions should be filed in the Small Claims Clerk's Office. The cost to file these motions is \$10.00, unless your costs have been waived by the court. See page 6 for more details about fee waivers.

### NEW TRIAL AND AMENDMENT OF JUDGMENT

Any party can file a motion for a new trial or a motion to alter or amend the judgment. These motions must be filed ten business days after the judge's order, which is called an “entry of the judgment.” See SCR-Civ. 59. A hearing on the motion will be scheduled within 21 to 60 days of

filing where you will argue in favor of your motion. You can file such motions in the Small Claims Clerk's Office and pay a \$10.00 fee, unless your costs have been waived by the Court. See page 6 for more details about fee waivers.

### **STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT**

The winning party or judgment creditor cannot execute on a judgment (file a court document to collect the judgment amount from the losing party or judgment debtor) *until* ten business days after the court enters the judgment on its official record or 'docket.'

The losing party can file a motion to stay execution of a judgment (to prevent further action by the winning party to collect the judgment) while a motion for judicial review, motion for a new trial or motion to alter or amend a judgment is waiting to be heard by the judge. These motions should be filed with the Small Claims Clerk; there is a \$10.00 fee, unless your costs have been waived by the Court. See page 6 for more details about fee waivers.

### **APPEAL FROM A TRIAL**

Either party may appeal a judge's decision. To "appeal a judge's decision" means to have the judge's decision looked at by another judge, usually a panel of judges from a higher court. If you wish to appeal a Magistrate Judge's decision, you must file a motion for judicial review in the Small Claims Clerk's Office within ten business days from the date that the judgment is entered into the Court's official docket. The motion for judicial review of the Magistrate Judge's decision will be reviewed by an Associate Judge. You cannot submit any new evidence when filing a motion for judicial review.

A Magistrate Judge normally hears cases in the Small Claims Court. However, sometimes an Associate Judge hears cases in the Small Claims Court. The time to file an appeal of an Associate Judge's decision is shorter than the time to file an appeal of a Magistrate Judge's decision. If you want to appeal a ruling by an Associate Judge, you can file an application for **allowance of appeal** with the D.C. Court of Appeals Clerk's Office (Room 114, Historic Courthouse, 430 E Street, NW). This application must be filed within three business days of the docketing date of the Associate Judge's order. The application for allowance of appeal is available in the D.C. Court of Appeals Clerk's Office. Once the record of the hearing or trial is sent to the D.C. Court of Appeals, that Court has jurisdiction over the case until the issues under appeal are decided.

### **HOW DO I COLLECT MY MONEY JUDGMENT?**

The Superior Court does not collect or pay the judgment award to the winning party. The winning party must collect the money judgment that was ordered by the judge. Legal action to collect a money judgment cannot be done until ten business days after the clerk docketed or enters the judgment on its official record.

### **CERTIFIED COPY OF THE JUDGMENT**

A party can request a certified copy of the judgment. If the losing party is willing to pay the winning party, he or she can give the certified copy of the judgment to the winning party for

signature upon payment of the judgment. The winning party can also present the certified copy to the losing party for payment of the money judgment. The signed certified copy should be filed with the Small Claims Clerk's Office as receipt of payment. The clerk will docket the judgment as paid and satisfied. The cost for a certified copy of the judgment is \$5.00.

### **WRIT OF ATTACHMENT**

If the losing party does not pay the winning party, the winning party may apply for a writ of attachment on a judgment. A writ of attachment is a form issued by the Court that allows the winning party to get monies from the losing party's wages and/or bank account and other property owed to the winning party. Only one writ of attachment may be issued against a person's wages at a time. You must apply for the writ of attachment in the Small Claims Clerk's Office.

### **SUBPOENA FOR ORAL EXAMINATION**

If you do not have any information on the losing party's bank accounts, monies or other property, you may ask for an oral examination to find out if the losing party has any assets and the location of the assets. You may obtain more information about scheduling an oral examination from the Small Claims Clerk's Office or call (202) 879-1120.

### **WRIT OF FIERI FACIAS**

The winning party can also issue a writ of fieri facias (abbreviated as "Fi-Fa") to order the sale of certain property owned by the losing party in order to collect the debt owed. This writ is also used for the process known as a "till tap". A "till tap" is used to order the Marshal to get money from a cash register of the business owned by the losing party. You can get a writ of fieri facias form from the Small Claims Clerk's Office. The filed writ of fieri facias must be taken to the U.S. Marshal's Office located at 555 4th Street, 11th Floor, North Side, Washington, D.C. 20001 for execution and payment of additional fees assessed by the U.S. Marshal's Office.

### **TRUE TEST COPY OF THE JUDGMENT FOR RECORDING WITH THE RECORDER OF DEEDS**

The winning party can also request a true test copy of the judgment to file with the Recorder of Deeds in the District of Columbia to put a claim on the losing party's real property such as a house or building located in the District of Columbia.

### **TRIPLE CERTIFICATE**

If the losing party has assets in another state, the winning party must consult the Small Claims or Civil Clerk's Office in that state to inquire about its procedures for filing an out of state judgment. Many states require what is called a "triple certificate" in order to transfer the judgment against the losing party to another state. A triple certificate can take five to ten business days to process. Please contact the D.C. Superior Court's Small Claims Branch Clerk's Office at (202) 879-1120 for additional information.

## **FOREIGN JUDGMENT**

If a party has a judgment rendered in another (“foreign”) jurisdiction, the judgment may be recognized in the District of Columbia, Small Claims and Conciliation Branch if the judgment amount is \$5000 or less by filing a ‘Request to File a Foreign Judgment’. The form must be completed front and back with any interest rates, costs or attorney fees reflected on the form exactly as they appear on the triple sealed abstract or exemplified copy of the judgment. If the rate of interest on the foreign judgment is not specified numerically or just says ‘legal rate’ an attorney that has a D.C. bar number will have to prepare a “Certification of Counsel Regarding Interest Rate” form. A pro se party must fill out an ‘Unsworn Declaration’ form declaring under penalty of perjury under the law of the District of Columbia that the interest rate entered on the request as the legal rate from the foreign jurisdiction is true and correct. You will need to submit the triple sealed abstract or exemplified copy of your judgment with the request.

## FILING FEES

STATEMENT OF CLAIM FOR ACTION UP TO \$500.00.....	\$ 5.00
STATEMENT OF CLAIM FOR ACTION OVER \$500.01 UP TO \$2500.00.....	\$10.00
STATEMENT OF CLAIM FOR ACTION OVER \$2500.01 UP TO \$10,000.00 ..	\$45.00
FOURTH PARTY COMPLAINT.....	\$10.00
INTERVENING COMPLAINT.....	\$25.00
COUNTERCLAIM, CROSSCLAIM OR 3 <sup>RD</sup> PARTY CLAIM.....	\$10.00
JURY DEMAND REQUEST.....	\$75.00
ARBITRATION AGREEMENT AND ARBITRATION AWARD.....	\$25.00
ALIAS NOTICE OF STATEMENT OF CLAIM (REISSUE).....	\$ 5.00
MOTION.....	\$10.00
41-I MOTION TO REINSTATE.....	\$25.00
APPOINTMENT OF SPECIAL PROCESS SERVER.....	\$ 5.00
SERVICE – CERTIFIED MAIL.....	\$ 6.74
SERVICE – CERTIFIED MAIL WITH RESTRICTED DELIVERY .....	\$11.89
SERVICE – REGISTERED MAIL.....	\$15.49
SERVICE – REGISTERED MAIL WITH RESTRICTED DELIVERY.....	\$20.64
PHOTOCOPY, PER PAGE.....	\$ .50
WRIT OF ATTACHMENT – BEFORE AND AFTER JUDGMENT.....	\$10.00
WRIT OF FIERI FACIAS.....	\$10.00
WRIT OF RESTITUTION.....	\$10.00
ORAL EXAMINATION.....	\$10.00
TRANSCRIPT FOR DOCKETING.....	\$ 5.00
TRIPLE SEAL.....	\$10.00
CERTIFIED COPY OR TRUE SEAL COPY.....	\$ 5.00
RECORD SEARCH, PER NAME.....	\$10.00
RETURNED CHECK.....	\$45.00
APPLICATION FOR ALLOWANCE OF APPEAL.....	\$100.00

**Note: Fees are subject to change; please check the Court's website at [www.dccourts.gov/pa](http://www.dccourts.gov/pa) to determine the current fees.**

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**Note: Please call the D.C. Courts' information desk at (202) 879-1010 during inclement weather or other emergency conditions to determine the status of court operations. The courts' operating status is also always on our webpage, [www.dccourts.gov](http://www.dccourts.gov), and will be broadcast on most television and radio stations as well.**