



SMALL CLAIMS INFORMATION

This information is provided to you to give you guidance on the filing of a Small Claims case. You can file a claim in Small Claims Court to collect on a debt or to obtain property owned by you. Some cases, though, are not appropriate for Small Claims Court because certain laws require that your case be brought in the magistrate or district court. You always have the right to file a claim in Small Claims as long as the dispute does not exceed \$5,000.00. Once you make the

decision to file an action in Small Claims your filing fee and service of process fee are non refundable.

LEGAL ADVICE BY THE COURT CLERKS

By law the clerks of the court cannot give out legal advice. The clerks have been instructed to answer questions that you may have as to the process of completing forms necessary for the filing of your claims or collecting on your judgment. The clerks are not in a position to advise you of the legal basis for your claims or what amount you should file a claim for. There are other issues that may concern you such as service of process on the Defendant, the location or venue for this case, the authority of this court to hear your case, and other legal issues. You should consult with an attorney or individual familiar with these issues and not the court clerks.

PROPER PARTIES TO YOUR CLAIM

The plaintiff must be 18 years of age or have a guardian ad litem appointed to be able to proceed with the case. The Defendant must be 18 years of age or a guardian ad litem again must be appointed. If you are filing a claim against a person that works for a corporation you should list the corporation as a defendant and properly serve the corporation through their registered agent listed with the

Secretary of State for Idaho. Please consult an attorney.

AMENDMENT OF YOUR AFFIDAVIT OF CLAIM

You cannot amend your claim for a greater or higher amount of money unless you amend your affidavit of claim and serve the defendant with your amended claim (14) days prior to your hearing date. If you are uncertain about the amount of your claim you may want to claim an amount that is higher than what you are sure of and then amend the amount at the time of your hearing.

DOMESTIC RELATIONS CASES

You may have a post divorce debt that your former spouse owes you. This may consist of child support, medical insurance premiums, medical bills and day care expenses for the children. The most effective court for determining these issues is the divorce or domestic relations court that originally heard your case. Not only can the divorce court award you a judgment for what you are owed but the court can also impose fines and jail to assist you in enforcing your judgment. Contact your Court Assistance Office for information and forms for this procedure.

CLAIMS AGAINST CITIES, COUNTIES OR THE STATE OF IDAHO

Claims against cities, counties, local units of government and the State of Idaho may require that a lawyer represent these entities of government. Lawyers are not allowed to appear in Small Claims Court. Also many claims against cities, counties and the state have a requirement that a Notice of Tort Claim be filed. Thus Small Claims Court may not be the proper court for these types of cases. Please consult an attorney.

MULTIPLE CLAIMS BY A PLAINTIFF AGAINST A DEFENDANT

The maximum that a plaintiff can recover from a defendant in Small Claims Court in Idaho is \$5,000.00. As a plaintiff you may have had several transactions with a defendant or defendants from which you are now claiming you are owed a debt. The law precludes you from “stacking” claims that exceed the \$5,000.00 limit for small claims if the basis for the debt is from a common series of transactions. You may be required to file your action in the Magistrate Division or District Court to recover the full amount that you are claiming. If you come to court and the court determines that the amounts that you are claiming involve a common series of transactions you can dismiss your case in court and re-file the case with the Magistrate Court or District Court or limit

your recovery to \$5,000.00. Once you file a claim in Small Claims Court against a defendant, you may be prevented from filing a claim against that defendant on other legal issues. You should consult with an attorney about all of your possible claims against a defendant.

NEGLIGENCE OR MALPRACTICE CASES

In Idaho a person can have a claim filed against them for negligence. Many times auto accident claims, and claims against professionals (real estate agents, veterinarians, dentists, doctors, lawyers) involve questions of negligence. If your case involves an auto accident you should be prepared to present evidence as to the time, date, location and cause or reason for the accident. The court cannot consider the fact that a citation was issued to one party as evidence. An accident report investigated by law enforcement can be of great assistance to the court.

In malpractice cases against professionals the plaintiff must prove that the actions by the professional did not meet minimum local standards for the profession. This may require either a statement or testimony from a person that establishes that the professional you have filed a claim against did not meet the minimum standards for the profession in the local area. Malpractice actions can be complicated proceedings and you should

consider consulting with an attorney on these issues.

WRIT OF POSSESSION

You can file an action to recover personal property with a value of \$5,000.00 or less in Small Claims Court. There are certain legal requirements that must be in place before you can seek this remedy. You must be the owner of the property and should bring with you to court any title, registration or bill of sale establishing your ownership. The property should be identified by; serial number, model name or number, manufacturer, model year, color description and license plate (if any). You must be able to give the address where the property is located and the name of the person(s) that has the property. If you cannot meet these requirements you can still file a claim for the value of the property and obtain a judgment for that amount. The value of property is the fair market value of the property and not replacement value.

The Ada County Court Assistance Office provides this information as a public service. It is not a substitute for legal advice. The laws and court rules are complex. It is always advisable to talk to a lawyer about your situation before filing your action.