

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR
SMALL CLAIMS DEPARTMENT

PLEASE TYPE OR PRINT LEGIBLY

VS

DEFENDANT'S ANSWER/COUNTER CLAIM

EACH DEFENDANT LISTED ABOVE SHOULD SIGN THIS FORM AND FILE IT WITH THE COURT BY 5:00 P.M. WITHIN 14 DAYS AFTER THE DATE OF SERVICE OF THE NOTICE AND CLAIM. THERE IS NO APPEAL FROM A SMALL CLAIMS JUDGMENT. SELECT ONLY ONE OPTION BELOW:

1. **PAYMENT OF CLAIM.** I hereby admit the claim of Plaintiff and
 - A. payment of the amount claimed plus cost is enclosed. (Do not send cash) Please make check payable to Plaintiff.
 - B. I will return the property demanded to the Plaintiff before the 14 days elapse and pay the costs.
2. **DEMAND FOR HEARING.** I deny the claim of Plaintiff, and I demand a hearing in the Small Claims Department. ENCLOSED IS THE REQUIRED FILING FEE OF \$74.50 for claims under \$1500.00, or \$143.50 for claims \$1501.00 -\$7500.00. (Do not mail cash)
3. **I HEREBY DENY THE CLAIM, DEMAND A SMALL CLAIMS HEARING AND WISH TO FILE A COUNTERCLAIM** of \$7,500.00 or less arising out of the same transaction or occurrence that is the subject matter of the Plaintiff(s) claim. Enclosed is Defendant(s) Fee of \$74.50 for claims under \$1500.00, or \$143.50 for claims \$1501.00 -\$7500.00. I claim the Plaintiff owes me \$_____ because: _____

4. **DEMAND FOR JURY TRIAL.** I hereby demand a jury trial. (The amount of the claim must exceed \$750.00 before you make this election.) Enclosed is the Defendant(s) Answer Fee and trial /jury Fee in the sum of \$278.00. (Do not mail cash.) This election requires the Plaintiff to file a formal complaint with the Court. You are required to designate a mailing address to which a copy of the complaint may be served on you by mail. Upon receipt of the complaint you have **10 days** to answer the action filed with the Court.

Date: _____ Defendant(1)Signature _____
Defendant(2)Signature _____
Mailing Address: _____ Phone: _____

ATTENTION DEFENDANT: YOU MUST READ NOTICE ON NEXT PAGE

INSTRUCTIONS

READ THE FOLLOWING CAREFULLY:

Unless you check one of the alternatives listed on the first page of this form and file the necessary fee with the clerk within 14 days after service of the Notice of Claim on you, Plaintiff may request default judgment. Plaintiff may then request any property owned by you which is subject to levy be taken to satisfy this judgment

PAYMENT OF CLAIM

1. If you admit owing the claim, make payment in full plus costs, payable to the Plaintiff and mail to the clerk.
2. Send only checks or money orders through the mail. You may bring payment to the courthouse.
3. If the claim is for specific property, please call the Small Claims Department for instructions before bringing any items to the courthouse.
4. If you pay this claim within 14 days after being served with the Notice of Claim, the only additional costs you will owe other than the claim itself are the fees paid by Plaintiff as shown at the bottom of the claim.

DEMAND FOR HEARING

1. You must enclose Defendant(s) fee as indicated on the first page of this form. (Do not send cash.)
2. If you believe you have paid this claim, or do not owe all or any portion of it, you may demand a hearing before a Judge. You will receive notice of the hearing time by mail within a few days.
3. This court has mandatory mediation. Both Plaintiff and Defendant may offer testimony, bring witnesses and other evidence pertinent to the controversy. If there is more than one party named for either side all parties must appear unless court procedure is followed. Contact Court Clerk for information authorizing a party not to appear.
4. No attorney at law or person other than you, the Plaintiff and witnesses may participate without the consent of the Presiding Judge.
5. There is no appeal from a decision made by the Judge in a Small Claim. COUNTERCLAIM You may file a counterclaim against Plaintiff if you believe they owe you money or are holding specific personal property of yours as a part of the controversy. The claim and the counterclaim will be decided at the same hearing.

COUNTERCLAIM

1. If Plaintiff(s) claim is more than \$750.00, you may demand a jury trial. You must file this election with the clerk along with your answer fee and trial/jury fee. Please submit \$287.00. This case if moved to the Circuit Court may be subject to arbitration (ORS 46.455(2)(c)).
2. Plaintiff will be notified of your election requesting jury trial. Plaintiff will have 20 days to file a formal complaint with the Court. This complaint need not be limited to the amount of the Small Claim, but must involve the same transaction or occurrence as the original claim.
3. A copy of the formal complaint will be served on you by mail. Upon receipt of the complaint you have 10 days to answer to the action filed in the court.
4. Procedures conducted outside of Small Claims Court will be formal and both parties will probably find it necessary to retain and attorney to assist them, although it is not required.

Questions should be directed to the Small Claims Department:

Trial Court Administrator, Small Claims

P O Box 670,

Vale OR 97918

Telephone: (541) 473-5171