

INFORMATION FOR SMALL CLAIMS

PLAINTIFF:

- 1) As Plaintiff, you must prove that the Defendant is liable for your claim. If the Defendant is properly served, but does not file a written answer, or does not appear at the hearing, you may ask the Court to grant a default judgment. Proof of the Defendant's liability must be attached to your affidavit. However, if the Defendant files a written answer, then the matter shall be set first for mandatory mediation, and if the mediation is unsuccessful, for trial. You must be prepared to present evidence at trial, later this day.
- 2) If you and the Defendant reach an agreement, either prior to the hearing, or through the process of mediation, no further court action is necessary. However, you must notify the Small Claims Court in writing that the case has been settled and may be dismissed.
- 3) In the event you have a trial and the Court renders a judgment in your favor, and the Defendant subsequently pays you, or satisfies the judgment whether through direct payment to you, or by collection by the County Sheriff, by a Writ of Execution, you MUST notify the Court by filing a SATISFACTION OF JUDGMENT with the clerk. (A form will be provided to you at the time you receive a copy of the judgment.)

DEFENDANT:

- 1) When you have been served with notice that a claim has been filed against you in the Small Claims Court, you may, if you do not wish to contest the Plaintiff's claim:
 - a. Make an out-of-court settlement with the Plaintiff before 20 days from the date you were served, or
 - b. Make no response, in which case the Plaintiff can ask the Court to grant a default judgment against you, for the amount which the Plaintiff claimed, plus costs.
- 2) If you wish to contest the claim, you must file a written Answer no later than 20 days from the date you were served with notice of the Claim, with the Small Claims Clerk. The Small Claims Clerk will then schedule the matter first for mediation, and if necessary, trial, and mail notice of the time for those hearings. In the event that the matter goes to trial, you must be prepared to show facts which disprove the Plaintiff's claim.
- 3) If the Plaintiff is awarded any part of his claim against you, he is entitled to payment of the full amount of such judgment, plus costs. (Costs are the filing fee, plus a fee for service of the claim to you. The service fee will be added to the claim after you have been served. Even if you pay before Court, the Plaintiff is entitled to recover all costs.) Payment of the judgment is made directly to the Plaintiff and not to the Court.

Additional costs will be charged to you if the Sheriff is called upon to collect the judgment by seizing money or property from you to satisfy the judgment through a Writ of Execution.

- 4) If you appear at the trial and are dissatisfied with the judgment, you may, within 30 days of the date of the entry of the judgment appeal the Court's decision. A default judgment entered because you failed to file an Answer or to appear for trial may not be appealed.

PLAINTIFF AND DEFENDANT:

- 1) If either party cannot appear on the day set for mediation or trial, trial may be rescheduled. The party requesting the rescheduling must submit a written request, setting forth appropriate reasons for the continuance. This written request must be submitted to the Small Claims Clerk no later than seven (7) working days prior to the Court date. The assigned judge will review your request and either grant or deny it. Do not presume that the filing of the request will automatically give you a continuance.

- 2) You should come to court prepared with all books, papers, and witnesses needed. Sworn statements and affidavits have very little value as evidence. Witnesses should be prepared to appear personally and give testimony at the trial. You may request that the clerk issue a subpoena for witnesses. You have the responsibility for having a disinterested third party serve the subpoena upon the witness and for paying to the witness, in advance, (if they require the same) fees of \$20 for a one-day court appearance, plus one way mileage to the courthouse at 55¢ per mile.

INFORMATION SHEET FOR PLAINTIFFS IN SMALL CLAIMS CASES

The person who files a claim in small claims court is called the plaintiff. The person the claim is filed against is called the defendant. This is a short information sheet for defendants in small claims cases. At the Idaho Supreme Court's website you can get a booklet with more detailed information:

<http://www.isc.idaho.gov/material.htm#sclai>
[m](http://www.isc.idaho.gov/material.htm#sclai).

1. Filing Your Claim

You must file your claim in the county where the defendant lives or the county where the claim arose. For example, if your claim is about a car accident, the county where the claim arose is the county where the accident happened.

You can get a claim form from the court clerk in the county where you are going to file your claim. Fill out the form completely (except for the case number), and give it to the court clerk to be filed. You must pay a \$69.00 filing fee.

You cannot ask for more than \$5,000. You cannot avoid the \$5,000 limit by filing more than one claim against the same defendant about the same transaction or occurrence.

There are laws that put a time limit on filing claims. There are different limits for different types of claims. Many of the time limits are in Idaho code title 5, Chapter 2. The court clerk will not be able to tell you the time limit that applies in your case. The judge will decide what time limit applies in your case at the hearing on your claim. Generally, you should file your claim within one year after it arose, but there are many cases in which the time limit is much longer, and a few in which it is shorter.

2. Giving Notice of Your Claim to the Defendant

You must give notice of your claim to the defendant. The procedure for giving notice to the defendant is called service of process. If service of process is completed correctly, and the defendant doesn't answer your claim, the judge cannot give you a default judgment if service of process is not completed correctly. If there is more than one defendant, you must serve process on each defendant. If the

defendants are husband and wife, you must serve process on each spouse.

Service of process should be completed within 30 days after you file your claim. In most counties, if you do not complete service of process within 30 days, your claim will be dismissed. If your claim is dismissed for lack of service, you can reopen your case by re-filing your claim. If you reopen your case within six months after you first filed your claim, you won't have to pay another filing fee.

a. Sheriff's Office

In most counties, you can ask the sheriff's office to serve process on the defendant. (Some counties have a marshal's office that will serve process in small claims cases.) You will have to pay a fee and you will have to provide information on where the defendant can be found. The sheriff's office will not investigate to find the defendant for you.

In some counties, the court clerk will collect the fee for the sheriff, and give the papers to the sheriff's office that are to be served on the defendant. In other counties, the clerk will give you the papers and you will have to take the papers to the sheriff's office.

The sheriff's office will prepare a "Sheriff's Return of Service", stating when and how the defendant was served, or that the sheriff was not able to deliver the papers. Some sheriff's offices will file the return with the court clerk; others will give you the return to file with the court clerk.

b. Private Process Server

You can ask a private process server to serve process on the defendant. You can find them in the phone book. You will have to pay a fee and you will have to provide information on where the defendant can be found. If you don't know where the defendant can be found, some process servers offer investigative services. The process server will charge more to find the defendant for you.

The court clerk will give you the papers to be served on the defendant and you will have to take them to the process server. Once the process server has delivered the papers to the defendant, the process server will prepare an "Affidavit of

Service" stating when and how the defendant was served. If the process server was not able to deliver the papers, the affidavit will say so.

Some process servers will file the affidavit with the court clerk, some will give it to you to file. Service of process is not complete until the affidavit, stating when and how the defendant was served, is filed with the court clerk.

c. Any Person Not a Party and Over 18

You can ask any person who is at least 18 years old and not a party to your case to serve process on the defendant. You can get an Affidavit of service form from the court clerk. The server will complete the Affidavit after serving the defendant. You will have to file the completed Affidavit of Service with the court clerk.

3. If the Defendant Does Not File an Answer – Default Judgments

If the defendant does not file an answer and the court file shows that service of process on the defendant has been completed, in most counties the court clerk will schedule your claim for a default hearing. The court clerk will mail you a notice with the date and time of your hearing. In some counties, default judgments are entered based on affidavits. If you are in a county where defaults are entered based on affidavits, you will need to get the proper forms from the court clerk, fill them out completely, and file them with the court clerk. The court clerk will then give your case file to the judge, and the judge will decide whether the information in the file is complete. The court clerk will notify you if your information not complete. If the information in the file is complete, the judge will give you a default judgment and the court clerk will mail you a copy of the judgment.

The following four requirements must be met before the judge will give you a default judgment.

a. The judge will check to make sure that the papers are in the court file to show that notice of your claim was properly given to the defendant.

b. There is a federal law that says that default judgments cannot be entered against men and women who are on active

duty and unable to respond. You must be able to truthfully state how you know the defendant is not a member of the uniformed services, that you have made diligent efforts but were not able to find out if the defendant is a member of the uniformed services, or the defendant has waived in writing his/her rights under the federal law. You can seek information about a person's military status for free at: the Defense Manpower Data Center at (703) 696-6762 or fax (703) 696-4156 or use their website if you have the defendant's social security number <https://www.dmdc.osd.mil/scra/owa/home>.

c. The judge cannot enter a default judgment against a minor (a person under the age of 18) or someone who is incompetent (is mentally disabled and unable to understand the nature of the proceedings.) You must be able to truthfully state that the defendant is not a minor and is not incompetent.

d. The judge will consider your explanation of your claim, and check any papers you have to support your claim, to verify that your claim has a factual and legal basis.

If these requirements are met, the judge will give you a default judgment. The court clerk will either give you a copy of the judgment at the hearing or mail one to you after the judge signs the judgment.

4. The Defendant's Answer to Your Claim, and Scheduling the Hearing on Your Claim

If the defendant disagrees with your claim and wants to contest the claim, the defendant must file an answer with the court clerk. When the court clerk receives the defendant's answer, the court clerk will schedule your claim for a contested claim hearing. The court clerk will mail you and the defendant a notice with the date and time of your hearing, and the court clerk will include a copy of the defendant's answer with your notice of hearing. In some counties you will be ordered to participate in Small Claims Mediation to see if you can resolve your case before your court hearing.

5. The Hearing on Your Claim – If the Defendant Does file an Answer

At the hearing, the judge will first ask you to explain your case. The judge will then ask the defendant why the defendant disagrees with your claim.

Sometimes the plaintiff and the defendant disagree about the facts of the case. Sometimes one party is not telling the truth. Sometimes both parties are telling the truth as they see it, but they see or remember things differently. When the plaintiff and the defendant disagree about the facts of the case, it is important for you to be prepared to give the judge evidence to prove your claim. There are two basic types of evidence – witness testimony and exhibits.

When you tell the judge about something that happened, you are a witness giving testimony. There may be other people who saw or heard something that happened that is important to your case. There are two ways you can offer what another person has to say at the hearing. One is to have the witness come to the hearing to tell the judge what the witness saw or heard. The other is to have the witness write a statement and bring the statement to court with you. A witness in court is usually more convincing than a written statement.

If your claim is that you paid the defendant to provide work or services for you and the defendant did not do it properly, it is likely that you will need a statement or testimony from an expert witness. An expert witness is someone who has special training or experience and can give an opinion.

For example, your claim may be that you took your car to the defendant to have it fixed, but the car still isn't running right. You may need someone with training or experience in fixing cars to tell the judge: a) if the mechanic did what a properly trained and experienced mechanic should have done to diagnose and repair the problem; b) what is wrong with your car now, and c) whether the problem with your car now is the result of something the mechanic did wrong. Exhibits are things that may help prove your case. The most common types of exhibits are documents and photographs, but an exhibit can be anything that is useful to support your claim.

You should bring any exhibits that may help prove your case. For example:

- If your case is about a written contract, you should bring all of the contract papers.
- If your claim is about an unpaid account or other debt, you should bring an accounting that shows the amounts owed or charged, the amounts paid, and the current balance.
- if your claim is about damages to property, you should bring photos that show the damage.
- you should bring receipts for any costs or expenses you are asking the defendant to pay.
- if your claim is about property that has been damaged, destroyed, or lost, you should bring estimates or receipts for the cost of repair or replacement.

If your exhibit is a tape recording, you should bring tape player to the hearing to play the tape. If your exhibit is a VHS video recording, you must call the court clerk's office before the day of your hearing so the court clerk can arrange to have a video player in the courtroom for the hearing.

7. Rescheduling Your Hearing

If there is an urgent reason why you cannot be in court on the day of your hearing, you can make a written request to the judge to reschedule your hearing. The court clerk has a form called a motion to continue that you can use for this purpose. You should file your written request with the court clerk at least two weeks before your hearing.

8. Appearing in Court for Hearings

- a. Interpreters – If you or one of your witnesses will need an interpreter at your hearing, you must call the court clerk before the day of the hearing to ask for an interpreter. You do not have to pay for an interpreter. Generally, a friend or relative will not be allowed to interpret for you.
- b. Attorneys - You can talk to an attorney before or after your hearing to get information or advice. The attorney cannot appear with you in court.
- c. Courtroom Behavior - When you come to court, you should be polite to the judge, the court clerks, and other people in the courtroom, including the defendant. Do not bring children with you unless they are old

enough to stay in their seats and sit quietly. While court is in session and you are waiting for your case to be called, do not visit with other people around you. Turn your cell phone or pager off and remove your hat before entering the courtroom. Do not bring food or drink into the courtroom.

9. Settlement

You and the defendant can talk to each other to try to settle the case at any time before the court enters a judgment. Generally, settlement negotiations are confidential – in other words, the judge will not consider anything the parties say to each other during settlement discussions as evidence in the case. The reason for this rule is to encourage the parties to talk to each other openly to try to resolve the case. If you and the defendant reach an agreement, the judge will enter a judgment based on your agreement.

Some counties have started a new program called mediation. In mediation, you and the defendant meet with a mediator who will help you and the defendant to try to settle your case. The mediator does not decide the case – it is up to each party to decide whether they want to agree to a settlement. If the defendant files an answer contesting your claim, the judge in your county may require you to go to mediation. The court clerk will know if mediation is required in your county.

10 Appeals

If the judge enters judgment in favor of the defendant, or if the judge enters judgment in your favor but for less than you asked for, you can file an appeal. If the judge enters judgment in your favor, the defendant can appeal. If you want to appeal the judgment, you must file a notice of appeal with the court clerk. The court clerk has a form for you to use. You must file your notice of appeal within 30 days after the judgment is entered. The deadline will not be extended for any reason. You must also pay \$81 filing fee. The court clerk will send you a notice if the defendant files an appeal.

On appeal, the case is assigned to a different judge for a new hearing. The parties may be represented by lawyers. The Idaho Rules of Civil Procedure and

Rules of Evidence apply, so the procedures are more formal, and the judge will not allow evidence to be presented that does not comply with the rules.

One of these rules is the hearsay evidence rule that generally excludes out of court statements by non-parties. Although the judge may have accepted hearsay such as written witness statements at your first hearing, you will generally have to bring your witnesses to court to testify at the trial on appeal. There are exceptions. Generally for a judge to allow hearsay evidence, the person offering it has to provide information to show the hearsay evidence is reliable.

11. Collecting on Your Judgment

If judgment is entered in your favor, the defendant is required to satisfy the judgment promptly by paying you the full amount of the judgment. The court does not collect the judgment for you. If the defendant does not pay the judgment, there are ways you can collect on the judgment. You can get a brochure from the court clerk called "Collecting on Your Small Claims Judgment" that has more information.

12. Satisfaction of Judgment

If judgment is entered in your favor and the defendant pays the judgment in full, the judgment has been satisfied. When the judgment has been satisfied, you must file a satisfaction of judgment with the court clerk. The court clerk has a form you can use.

The satisfaction of Judgment creates a record that the judgment has been paid. If the satisfaction is not filed, it will affect the defendant's credit history. If the judgment is satisfied and you do not file a satisfaction of judgment, the defendant may have a claim against you for damages.

13. More Information

If you need more information than is provided in this information sheet or in the on-line booklet, you should talk to a lawyer. The court clerk cannot give you more information about anything other than small claims mediation that is not already covered in this information sheet and the on-line booklet.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF BONNEVILLE

SMALL CLAIMS DEPARTMENT

_____ ,)	CASE NO. _____
_____ ,)	
PLAINTIFF(S),)	
vs.)	SUMMONS
_____ ,)	
_____ ,)	
DEFENDANT(S),)	

TO THE DEFENDANT(S):

YOU ARE NOTIFIED that a claim has been filed against you. The plaintiff(s) who filed the claim, the court with which the claim is filed, and the case number assigned to your case are listed above.

IF YOU DISAGREE WITH THE CLAIM, AND IF YOU WANT TO CONTEST THE CLAIM, you must file an answer with the court within 20 days from the date you received this summons. IF YOU AGREE WITH THE CLAIM, AND DO NOT WISH TO CONTEST IT, NO ACTION NEED BE TAKEN BY YOU.

IF YOU DO NOT FILE YOUR ANSWER with the court within 20 days, the court may enter judgment against you, for the money or personal property that the plaintiff asks for in the claim, plus the plaintiff's costs for filing the claim and serving you with notice of the claim.

IF YOU FILE AN ANSWER, you will be mailed a notice with the date and time for a hearing, when the judge will hear your case. IF YOU DO NOT WANT A HEARING DO NOT FILE THE ANSWER.

You should receive an ANSWER form along with this summons. You must use that form if you decide to file an answer. You can mail your answer to: **Small Claims, 605 North Capital Avenue, Idaho Falls, ID 83402.** The answer must be received by the court within the 20 day deadline.

You should also have received a document called "INFORMATION FOR DEFENDANT'S IN SMALL CLAIMS CASES" along with this summons. A more detailed booklet which will take you step-by-step through the small claims court process is available upon request from the Clerk of the District Court in your county. This booklet has important information that will help you prepare for your hearing.

Favor de avisarnos antes de la fecha de la audiencia si usted necesitara un interprete en la corte.

DATED this _____ day of _____, 20____.

BY: _____
Deputy Clerk of the Court

PLAINTIFF'S INSTRUCTIONS

1. The fee to file your Claim is \$69.00. These "Plaintiff's Instructions" **must** be filed with the Court along with the Claim. Please be sure both documents are signed.
2. You must make arrangements for service of the claim to the Defendant(s). You may use a process server, county sheriff's office, or any other disinterested third party. Proof of service must be filed for **each** Defendant named in the claim, showing who was served, at what address, on what day, by whom served, and dollar amount charged for service. All Affidavits of Service (for private server) must be notarized. Notarization is not required for Sheriff's Returns of Service. The person serving the Claim for you will charge you a fee, usually payable in advance. At the conclusion of the case, you can ask the Court to include all costs and fees in the judgment.
3. If a corporation or business is named in the Claim, you must give the name of the registered agent, owner, or other individual to whom the papers should be served.
4. If a juvenile is named in the Claim, you must state the name of the parent or legal guardian, as well as the name of the juvenile. Service cannot be made to someone under the age of 18 years.
5. The Defendant has 20 days from the date of service to file a written Answer. If such an Answer is not filed, it is the Plaintiff's responsibility to obtain a default judgment by filing an Application for Default Judgment and an Affidavit of Competence, Non-Military Service, and Amount Due. To the affidavit the Plaintiff must attach copies of all relevant documents for the Court's review.
6. If the Defendant files a written Answer within the 20 days, the case will be scheduled for mediation and/or trial, and the parties will be notified of the date and time by mail. The date and time of the trial cannot be changed, unless a written request is submitted to the court by one of the parties, setting forth good cause why a continuance should occur. Continuances may, or may not be granted. You must submit the written request for continuance seven (7) working days prior to the trial.
7. Please review and return the signed "Plaintiff's Instructions" to the Small Claims clerk at the time you file your complaint. **Your complaint will not be processed without this signed form.**

I have read and acknowledge the foregoing.

Date

Plaintiff's Signature

INFORMATION SHEET FOR DEFENDANTS IN SMALL CLAIMS CASES

The person who files a claim in small claims court is called the plaintiff. The person the claim is filed against is called the defendant. This is a short information sheet for defendants in small claims cases. At the Idaho Supreme Court's website you can get a booklet with more detailed information:

<http://www.isc.idaho.gov/material.htm#sclaim>.

A. IF YOU AGREE WITH THE PLAINTIFF'S CLAIM, OR IF YOU DON'T WANT TO CONTEST THE PLAINTIFF'S CLAIM.

You were given a copy of the plaintiff's claim, a summons, and a form for your answer to the claim. If you agree with the plaintiff's claim, or if you don't want to contest the plaintiff's claim, then you do NOT have to file the answer.

If the judge gives the plaintiff a default judgment, you must pay the judgment promptly. If you do not pay the judgment promptly and in full, there are ways the plaintiff can collect on the judgment. There is more information about paying a judgment, and collecting on judgments, later in this information sheet.

If the judge gives the plaintiff a default judgment, you can ask the court to set aside a default judgment, which the court will do in some circumstances. If you want to ask the court to set aside a default judgment, you need to do it promptly. There is more information about setting aside default judgments in the on-line booklet.

You and the plaintiff can talk to each other to try to settle the plaintiff's claim at any time before the court enters a judgment. There is more information about settlement later in this information sheet.

B. IF YOU DISAGREE WITH THE PLAINTIFF'S CLAIM, AND WANT TO CONTEST THE CLAIM

1. Filing Your Answer to the Claim

You were given a copy of the plaintiff's claim, a summons, and a form for your answer to the claim. If you disagree with

the plaintiff's claim and want to contest the claim, you must complete the answer form and file it with the court clerk by the deadline stated in the summons.

The form must be filled out with a typewriter or printed in black ink. You must fill out the form completely. You can file your answer by taking it to the court clerk's office or by mailing it to the court clerk's office. If you mail it, you must mail it in time for the court clerk to receive it by the deadline stated in the summons. You do not have to pay a fee to file your answer.

2. The Hearing on a Contested Claim

After you file your answer, the court clerk will schedule your case for a contested claim hearing. The court clerk will mail you and the plaintiff a notice with the date and time for the hearing.

At the hearing, the judge will ask the plaintiff to explain why you should pay the money the plaintiff is asking for, and the reasons for the amount of money the plaintiff is asking for. The judge will ask you to explain why you disagree with the claim.

Sometimes the plaintiff and the defendant disagree about the facts of the case. Sometimes one party is not telling the truth. Sometimes both parties are telling the truth as they see it, but they see or remember things differently.

When the plaintiff and the defendant disagree about the facts of the case, it is important for you to be prepared to give the judge evidence to prove your claim. There are two basic types of evidence – witness testimony and exhibits.

When you tell the judge about something that happened, you are a witness giving testimony. There may be other people who saw or heard something that happened that is important to your case. There are two ways you can offer what another person has to say at the hearing. One is to have the witness come to the hearing to tell the judge what the witness saw or heard. The other way is to have the witness write a statement, and bring the statement to court with you. A witness in court is usually more convincing than a written statement.

If there is an issue in your case about whether services were properly rendered, it is likely that you will need a statement or testimony from an expert witness. An expert witness is someone who has special training or experience and can give an opinion.

For example, the plaintiff's claim may be that you failed to pay for repairs to your car. Your defense may be that you took your car to the plaintiff to have it fixed, but the car still isn't running right. You may need someone with training or experience in fixing cars, to tell the judge: a) if the mechanic did what a properly trained and experienced mechanic should have done to diagnose and repair the problem, b) what is wrong with your car now, and c) whether the problem with your car now is the result of something the mechanic did wrong.

Exhibits are things that may help prove your case. The most common types of exhibits are documents and photographs, but an exhibit can be anything that is useful to support your claim.

You should bring any exhibits that may help prove your case. For example:

- If your case is about a written contract, you should bring all of the contract papers.

- If the plaintiff claims that you failed to pay money that you owed, and if your position is that you paid the money that was owed, you should bring your receipts or cancelled checks.

- If there is an issue in your case about the condition of property, photographs of the property can be very useful.

- If there is an issue in your case about the cost or value of property or repairs to property, estimates and receipts can be very useful.

If your exhibit is a tape recording, you should bring a tape player to the hearing to play the tape. If your exhibit is a FHS video recording, you must call the court clerk's office before the day of your hearing so the court clerk can arrange to have a video player in the courtroom for the hearing.

3. Counterclaims

If you have your own claim that the plaintiff owes you money, or that the plaintiff has property that belongs to you, then your claim is a counterclaim. We don't have a way for the judge to consider your counterclaim unless you file your own claim against the plaintiff.

For example, a plaintiff might file a claim saying that the plaintiff loaned you \$1,000 that you didn't pay back. Your defense might be that you only owe the plaintiff \$500, because there was another time when you loaned the plaintiff \$500 that the plaintiff did not pay back. The judge won't consider your claim about the \$500 loan to the plaintiff unless you file your own claim against the plaintiff.

You can file a claim in small claims court for up to \$5,000. The court clerk can provide you with information about filing a claim in small claims court.

4. Rescheduling Your Hearing

If there is an urgent reason why you cannot be in court on the day of your hearing, you can make a written request to the judge to reschedule your hearing. The court clerk has a form called a motion to continue that you can use for this purpose. You should file your written request with the court clerks at least two weeks before your hearing.

5. What Happens if You Don't Come to the Hearing

If you don't come to the hearing, the judge may give the plaintiff a default judgment, the same as if you don't file an answer (See Part A above).

6. Appearing in Court for Hearings

a. Interpreters. If you or one of your witnesses will need an interpreter at your hearing, you must call the court clerk the day before the day of your hearing to ask for an interpreter. You do not have to pay for an interpreter. Generally, a friend or relative will not be allowed to interpret for you.

b. Attorneys. You can talk to an attorney before or after your hearing to get information or advice. The attorney cannot appear with you in court.

c. Courtroom Behavior. When you come to court, you should be polite to the judge, the court clerks, and other people in the courtroom, including the defendant. Do not bring children with you unless they are old enough to stay in their seats and sit quietly. While court is in session and you are waiting for your case to be called, do not visit with other people around you. Turn your cell phone or pager off and remove your hat before entering the courtroom. Do not bring food or drink into the courtroom.

7. Appeals

If the judge enters judgment in favor of the plaintiff, you can file an appeal. If the judge enters judgment in your favor, or if the judge enters judgment for the plaintiff for less than the plaintiff asked for, the plaintiff can appeal.

If you want to appeal the judgment, you must file a notice of appeal with the court clerk. The court clerk has a form for you to use. You must file your notice of appeal within 30 days after the judgment is entered. The deadline will not be extended for any reason. You must also pay a \$53 filing fee. The court clerk will send you a notice if the plaintiff files an appeal.

On appeal, the case is assigned to a different judge for a new hearing. The parties may be represented by lawyers. The Idaho Rules of Civil Procedure and rules of Evidence apply, so the procedures are more formal, and the judge will not allow evidence to be presented that does not comply with the rules.

One of these rules is the hearsay evidence rule that generally excludes out of court statements by non-parties. Although the judge may have accepted hearsay such as written witness statements at your first hearing, you will generally have to bring your witnesses to court to testify at the trial on appeal. There are exceptions. Generally for a judge to allow hearsay evidence the person offering it has to provide information to show the hearsay evidence is reliable.

C. SETTLEMENT

You and the plaintiff can talk to each other to try to settle the case at any time before the court enters a judgment. Generally, settlement negotiations are confidential – in other words, the judge will not consider

anything the parties say to each other during settlement discussions as evidence in the case. The reason for this rule is to encourage the parties to talk to each other openly to try to resolve the case. If you and the plaintiff reach an agreement, the judge will enter a judgment based on your agreement.

- If you have agreed to settle out of court (if you and the plaintiff have agreed to settle things between yourselves and don't need a judgment from the court), the judge will dismiss the plaintiff's claim.

- If you and the plaintiff have agreed that there are things one or both of you will do later that will resolve the claim, you should put your agreement in writing, and you should both sign and date the agreement. The judge will dismiss the claim without prejudice, which means that the plaintiff can re-file the claim later if you don't do what you and the plaintiff have agreed.

- If you and the plaintiff have agreed that the plaintiff is not entitled to a judgment, the judge will dismiss the claim with prejudice, which means that the plaintiff cannot re-file the claim later.

- If you and the plaintiff agree that the plaintiff is entitled to judgment, and you agree about the amount of money you should pay the plaintiff, then the judge will enter judgment in favor of the plaintiff for the amount you have agreed on.

Some counties have started a new program called mediation. In mediation, you and the plaintiff meet with a mediator, who will help you and the plaintiff to try to settle your case. The mediator does not decide the case – it is up to each party to decide whether they want to agree to a settlement. If you file an answer contesting the plaintiff's claim, the judge in your county may require you and the plaintiff to go to mediation. The court clerk will know if mediation is required in your county.

D. PAYING THE JUDGMENT AND SATISFACTION OF JUDGMENT

If the judge enters a judgment in favor of the plaintiff (after default, after a contested claim hearing, or after a judgment on appeal), you are required to promptly pay the amount of money stated in the

judgment. Payment is made to the plaintiff, not the court. You should make the payment in a way that gives you proof you paid the full amount to the plaintiff, such as a cancelled check or a money order sent by certified mail.

After you pay the judgment, the judgment is satisfied. After you have satisfied the judgment, the plaintiff must file a satisfaction of judgment with the court clerk. If you satisfy the judgment and the plaintiff does not file a satisfaction of judgment, you may have a claim against the plaintiff for any damages you incur because the plaintiff fails to file a satisfaction of judgment.

E. COLLECTION ON JUDGMENTS AND EXEMPTIONS FROM COLLECTION

If the judge enters a judgment in favor of the plaintiff, and you do not satisfy the judgment, there are ways the plaintiff can collect on the judgment – also known as execution on the judgment.

If the judgment was a default judgment, the plaintiff can execute on the judgment immediately. If the judgment is not a default judgment, the plaintiff must wait until the 30-day appeal period is over. If no appeal is filed, the plaintiff can execute on the judgment immediately after the appeal period is over. If an appeal is filed, the plaintiff cannot execute on the judgment that was issued in small claims court – but if the plaintiff gets a judgment in the plaintiff's favor on appeal, the plaintiff can execute on the judgment on appeal.

If you do not pay the judgment in full, there are four ways the plaintiff can execute on the judgment.

- The plaintiff can garnish your wages. (When your wages are garnished, your employer withholds part of your paycheck, and pays the money to the sheriff, who pays it to the plaintiff.

- The plaintiff can attach your bank account(s). When your bank account is attached, the bank pays the money you have in your account to the sheriff, who pays it to the plaintiff.

- The plaintiff can attach your personal property. When your personal property is attached, the sheriff takes the property and

sells it at auction, and gives the proceeds to the plaintiff. (Personal property is property other than land or buildings.)

- The plaintiff can file a lien against real property and foreclose on the lien. (Real property is land or buildings; foreclosure is the process of selling the property to pay the judgment on the lien.)

You can also be ordered to come to court for a debtor's examination, so the plaintiff can find out what you have that can be used to pay the judgment. If you do not come to court for the examination, you can be held in contempt and a warrant can be issued for your arrest.

If the plaintiff executes on the judgment by garnishing wages, or attaching your bank accounts or other personal property, the sheriff will serve you with copies of the plaintiff's execution papers.

If the sheriff serves you with execution papers, you can avoid having your wages garnished or your personal property seized by paying the sheriff the amount of money you owe. The amount of money you owe will include any fees the plaintiff paid the court clerk or the sheriff to execute on the judgment, and these amounts will be stated on the execution papers.

The sheriff will also serve you with a notice that contains important information about your legal rights. There are some types of money or property that are exempt and can't be taken to satisfy the judgment. The legal notice has more information about the types of money or property that are exempt

If exempt money or property is garnished or attached, there are steps you must follow to file a claim of exemption with the sheriff. The legal notice has information about how to file a claim of exemption.

8. More Information

If you need more information than is provided in this information sheet or in the on-line booklet, you should talk to a lawyer. The court clerk cannot give you more information about anything other than small claims mediation that is not already covered in this information sheet and the on-line booklet.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT FOR THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE
SMALL CLAIMS DIVISION OF THE MAGISTRATE COURT

ORDER FOR MEDIATION

TO THE PARTIES IN SMALL CLAIMS ACTIONS:

PLEASE TAKE NOTICE, that in all contested matters wherein the Plaintiff has filed a complaint and the Defendant has filed a written Answer, no trial may occur before the Small Claims Court, until the parties first submit themselves to mediation. Mediation offers the parties a final opportunity to maintain control over their dispute and to settle the dispute without the intervention of the Court.

In mediation, trained, neutral third persons attempt to aid the parties in resolving their differences and settling the same without the necessity of a trial. If you reach a mediated settlement, that agreement will be reduced to writing by the mediator, signed by each of the parties and presented to the Court for approval and order.

If the parties cannot resolve the matter, then trial in your case will be held on the same day, but at a later time, before the Small Claim's Judge.

You should bring any evidence which you wish to present to the Judge and provide any witnesses whom you wish to testify on your behalf. Please be aware that the mediator must keep confidential, all information received during the mediation process and cannot be called as a witness for either party. Further, the mediator cannot give the parties legal advice.

Failure to appear at mediation will cause your case to be dismissed if you are the Plaintiff or a default judgment to be entered against you, if you are the Defendant.

You will receive written notice from the clerk of the Small Claims Court, setting the matter for mediation, and if mediation is unsuccessful, informing you of the time for trial on the same day.

DATED THIS _____ day of _____, 20__.

MAGISTRATE JUDGE

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE
SMALL CLAIMS DEPARTMENT

	)	CASE NO. _____
)	
)	
PLAINTIFF(S),)	
vs.	)	AFFIDAVIT OF COMPETENCE
	)	NON-MILITARY SERVICE,
	)	AND AMOUNT DUE
)	
)	
DEFENDANT(S).)	

STATE OF IDAHO)
) SS:
 County of _____)

I, _____, being first duly sworn, and upon personal knowledge of the facts and circumstances recited herein, state as follows:

1. I am 18 years of age or older, and I am the plaintiff in this case, or the plaintiff in this is a business organization and I am an owner or employee of the plaintiff.
2. The defendant(s) in this case is (are) at least 18 years of age, and is (are) not incompetent.
3. Check one:

_____ The defendant(s) in this case is (are) not a member of the Armed Forces of the United States as defined by the Soldiers and Sailors Civil Relief Act of 1940 as amended or
 _____ I am unable to determine whether the defendant(s) is (are) a member of the Armed Forces as defined by the Soldiers and Sailors Civil Relief Act of 1940 as amended.

4. This claim _____ does, _____ does not include interest, finance charges, or late charges. If so, the amounts are calculated as follows: _____

5. I have attached copies of all relevant documents to this affidavit.

6. The defendant(s) owes the plaintiff:	\$ _____
Deduct payments made since the date of filing:	\$ _____
Add fees for filing claim and service of process:	\$ _____
TOTAL DUE AND OWING	\$ _____

Signature

Subscribed and sworn to before me this date: _____.

Deputy Clerk or Notary Public
If Notary, my commission expires: _____

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF BONNEVILLE, MAGISTRATES DIVISION

SMALL CLAIMS

_____,)
_____,)
PLAINTIFF(S),)
vs.)
_____,)
_____,)
DEFENDANT(S),)
_____)

CASE NO. _____

SUBPOENA

THE STATE OF IDAHO TO: _____

You are hereby commanded to appear before the Honorable _____
_____ of the above-entitled court at the courtroom at Bonneville County,
Idaho Falls, Idaho, on the _____ day of _____, _____, at
_____ o'clock _____.m. as a witness in the above-entitled action.

You are further commanded to bring with you the following items or documents _____

You are further notified that if you fail to appear at the place and time specified above, you may
be held in contempt of court and that the aggrieved party may recover from you the sum of \$100 and all
damages which he/she may sustain by your failure to appear as a witness.

BY ORDER OF THE COURT, Dated this _____ day of _____, _____.

Clerk of the District Court

Deputy

EXECUTIONS

COSTS – SMALL CLAIMS OFFICE:

- \$2.00 for issuance of Writ of Execution by the Small Claims Clerk.
- \$1.00 per page for copies made by the Small Claims Clerk.

COSTS – SHERIFF'S OFFICE:

- Sheriff's fees vary and are paid directly to the Sheriff's Office.

COSTS – BANK:

- There is a \$5.00 charge to the bank if you are garnishing a checking or savings account.

COPIES REQUIRED BY SHERIFF:

- Original Execution plus two copies.
- Original Notice of Garnishment plus two copies.

ENVELOPE REQUIRED BY SHERIFF:

- An envelope addressed to the defendant with sufficient postage affixed.

PLEASE CONTACT THE CIVIL OFFICE FOR THE RATE OF INTEREST ON YOUR JUDGMENT.

The following documents are provided for your use in this package:

- Letter of Instruction to the Sheriff
- Application and Affidavit for Writ of Execution
- Affidavit in Support of Issuance of Writ of Execution & Calculation of Accrued Interest
- Writ of Execution on Small Claims Judgment (Bank Garnishments or Till Taps)
- Writ of Execution on Small Claims Judgment (Wage Garnishment)
- Notice of Garnishment

If you have a judgment for property, fill out the Application and Affidavit for Writ of Execution and a Writ of Possession on Small Claims Judgment.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE
SMALL CLAIMS DEPARTMENT

_____	)	CASE NO. _____
)	
_____)	
PLAINTIFF(S),)	
vs.	)	APPLICATION AND AFFIDAVIT
	)	FOR WRIT OF EXECUTION
_____)	
)	
_____)	
DEFENDANT(S).)	

STATE OF IDAHO)
) ss:
 County of _____)

I, _____, being first duly sworn, and upon personal knowledge of the facts and circumstances recited herein, state as follows:

1. I am 18 years of age or older, and I am the plaintiff in this case, or the plaintiff in this is a business organization and I am an owner or employee of the plaintiff.
2. A judgment was entered against the defendant(s) in this case on _____.
3. The total amount of the judgment was \$_____.
4. The defendant has paid a total of \$_____.
5. Post-judgment interest has accrued in the amount of \$_____.
6. Post-judgment costs and fees have incurred in the amount of \$_____.
7. Judgment was entered for recovery of the following personal property: _____

8. Of the personal property included in the judgment, I have recovered the following personal property from the defendant: _____
9. I am asking for a writ of execution. I _____ am, _____ am not asking that the writ include a continuous garnishment of employment income of the defendant(s). If so, the name and address of the employer(s) is: _____

 Plaintiff's Signature

Subscribed and sworn to before me this date: _____.

 Notary Public
 If Notary, my commission expires: _____

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE
SMALL CLAIMS DEPARTMENT

_____ ,)	CASE NO. _____
_____ ,)	
_____ ,)	
PLAINTIFF(S),)	
vs.)	AFFIDAVIT IN SUPPORT OF ISSUANCE
_____ ,)	OF WRIT OF EXECUTION AND CALCULATION
_____ ,)	OF ACCRUED INTEREST
_____ ,)	
DEFENDANT(S).)	

STATE OF IDAHO)
) ss:
 County of _____)

I, _____, being first duly sworn, and upon personal knowledge of the facts and circumstances recited herein, state as follows:

1. I am 18 years of age or older, and I am the Plaintiff in this case, or the Plaintiff(s) in this case is a business organization and I am an owner or employee of the Plaintiff(s).
2. That this Affidavit is submitted in support of the issuance of a Writ of Execution on a Judgment entered herein on _____.
3. That as of the _____ day of _____, _____ the amount due on said Judgment is as follows:

Judgment Amount:	\$ _____
Less Credits and Offsets:	\$ _____
Plus interest to _____:	\$ _____
Plus Accruing Costs:	\$ _____
Total amount now due and owing:	\$ _____

4. That interest accrues on said Judgment at the rate of _____ per annum and such interest now due is calculated as follows:

Amount of Judgment	\$	_____
Interest Rate in Decimals	x	_____
Divided by days of the year	÷	365
	=	_____
		(per diem amount)
Multiply by Days since Judgment entered	x	_____
		(interest amount)

5. Interest continues to accrue on said Judgment in the amount of \$_____ per day.

Signature

Subscribed and sworn to before me on the _____ day of _____, _____.

Deputy Clerk or Notary Public

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE
SMALL CLAIMS DEPARTMENT

_____,) CASE NO. _____
)
 _____,)
)
 vs. PLAINTIFF(S),)
)
 _____,) WRIT OF EXECUTION FOR CONTINUING
) GARNISHMENT ON SMALL CLAIMS JUDGMENT
 _____,)
)
 _____,)
)
 DEFENDANT(S).)

STATE OF IDAHO)
) ss:
 County of _____)

THE STATE OF IDAHO to the Sheriff of the County of Bonneville
 THE STATE OF IDAHO to _____ (employer)

ON _____, the plaintiff(s) recovered a judgment against the defendant(s) in this case for:

TOTAL SUM OF JUDGMENT:	\$ _____
Amount(s) paid by defendant(s):	\$ _____
Plus accruing costs:	\$ _____
Plus accrued interest:	\$ _____
Total amount now due and owing:	\$ _____

You, THE SHERIFF, are required to satisfy the judgment, with post-judgment interest accruing at the legal rate and accruing costs, out of the personal property of _____ (name of defendant) and make return of this writ within sixty (60) days after receipt of this writ.

You, THE EMPLOYER of the judgment debtor, are hereby directed to pay the Sheriff of Bonneville County such future moneys coming due to _____ (name of defendant) as a result of his/her employment with you, pursuant to Section 8-509, Idaho Code. This garnishment shall continue until the judgment, including post-judgment interest and accruing costs, has been fully paid.

YOU ARE HEREBY NOTIFIED THAT IF YOU FAIL TO COMPLY with the terms of this writ, that you, the employer, may be held responsible for payment of such sums that you are required by this writ to withhold from the wages of the judgment debtor. YOU ARE FURTHER NOTIFIED that if you are paying over to the sheriff, pursuant to this writ, from the compensation of the judgment debtor, the maximum amount allowed under the provision of section 11-207, Idaho Code, then no other garnishments may be served upon you until this garnishment is satisfied.

Date: _____

CLERK OF THE DISTRICT COURT

By: _____, Deputy

ORIGINAL PLUS TWO (2) COPIES

Full Name of Party Filing Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone

IN THE DISTRICT COURT FOR THE _____ JUDICIAL DISTRICT
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____
SMALL CLAIMS DEPARTMENT

Case No. _____

Plaintiff(s),

vs.

Defendant(s).

WRIT OF EXECUTION
ON SMALL CLAIMS JUDGMENT

THE STATE OF IDAHO to the Sheriff of the County of _____ Greetings:

On _____, the Plaintiff(s) recovered a judgment against the Defendant(s)
in this case for:

TOTAL SUM OF JUDGMENT:	\$ _____
Amount(s) paid by Defendant(s):	\$ _____
Plus accruing costs:	\$ _____
Plus accrued interest:	\$ _____
Total amount now due and owing:	\$ _____

You, THE SHERIFF, are required to satisfy the judgment, with post-judgment interest accruing at the legal rate and accruing costs, out of the personal property of _____ (name of Defendant) and make return of this writ within sixty (60) days after receipt of this writ.

Date: _____

CLERK OF THE DISTRICT COURT

By: _____
Deputy

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
AND FOR THE COUNTY OF BONNEVILLE
SMALL CLAIMS DEPARTMENT

_____) CASE NO. _____
_____)
PLAINTIFF(S), _____)
vs. _____) APPLICATION AND AFFIDAVIT FOR
_____) WRIT OF POSSESSION
_____) DEFENDANT(S), _____)
_____) _____)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, _____, being first duly sworn, and upon personal knowledge of the facts and circumstances recited herein, depose and state:

1. I am over the age of 18 years, and I am the plaintiff in this case, or the plaintiff in this case is a business organization and I am an owner or employee of the plaintiff.
2. A judgment was entered against the defendant(s) in this case on _____,
_____.
3. Judgment was entered for recovery of the following personal property to me, which I have not obtained or received: _____

4. I believe the property is located at the following address: _____

5. I believe the property is located within the following building or enclosure at that address: _____

6. I believe the property can be found at the above location because: _____

Subscribed and sworn to before me
this date: _____

Plaintiff's Signature

Deputy Clerk or Notary Public for Idaho
If Notary, my commission expires:

DELIVER OR MAIL THESE INSTRUCTIONS TO: Bonneville County Sheriff
605 N. Capital Avenue
Idaho Falls, ID 83402
(Telephone: 529-1314)

****NOTE:** The Sheriff's Office may require an advance fee (\$200) before levying on personal property. This fee can be added to the judgment amount.

MY NAME/COMPANY: _____, Plaintiff
I HAVE A JUDGMENT AGAINST: _____, Defendant
Defendant's address: _____
Defendant is employed at: _____
Defendant's employer's address: _____

INSTRUCTIONS TO THE SHERIFF (check one):

- Serve continuing garnishment to employer for wages.
- Serve garnishment on bank account.
Bank name and branch: _____
- You are instructed to satisfy my judgment by levying upon personal property subject to execution, and particularly the following which I have checked on for liens and find them subject to execution.

Describe the property by giving make, color, license number, model or serial number, and any other description that helps with positive identification.

1. _____

2. _____

3. _____

Other instructions not covered above: _____

****Upon signing this instruction form, I acknowledge that all expenses incurred when executing on the above will be my responsibility.**

Date: _____ Signature: _____
Address: _____
Telephone: _____

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT IN THE
COUNTY OF BONNEVILLE, STATE OF IDAHO

_____))
Plaintiff,)
)
vs.)
)
_____))
Defendant.)
_____)

NOTICE OF GARNISHMENT

Court Case # _____

SHERIFF OF BONNEVILLE COUNTY, IDAHO

TO:

TAKE NOTICE that all money, wages, goods, credits, effects, rents due and owing and all other personal property in your possession or under your control, belonging to the defendant named in the attached copy of the Writ of Execution is levied upon and you are hereby notified not to pay or transfer the same to anyone but the Office of the Sheriff. WAGES are subject to maximum garnishment provisions of Title III of the Consumer Credit Protective Act (15 USC 1673)

DATE _____

Sheriff

By: _____

Deputy

ANSWER OF GARNISHEE:

PLEASE ANSWER THE FOLLOWING INTERROGATORIES. IDAHO CODE § 8-512 provides that the garnishee shall make a full and true answer to interrogatories within five (5) days or the plaintiff may take judgment against him by default.

FINANCIAL INSTITUTIONS: DO YOU HAVE IN YOUR POSSESSION OR UNDER YOUR CONTROL ANY MONEY OR PROPERTY BELONGING TO DEFENDANT? _____ Amount _____

IS THE DEFENDANT YOUR EMPLOYEE? _____ FULL-TIME () PART-TIME () CONTRACT ()

WHAT IS HIS/HER AVERAGE TAKE HOME PAY? _____ WHEN PAID? _____

DO YOU OWE THE DEFENDANT ANY MONEY? YES OR NO (CIRCLE ONE)

IF SO, HOW MUCH AND WHEN DID IT BECOME DUE? _____

IF NOT YET DUE, WHEN WILL IT BECOME DUE? _____

HAS DEFENDANT ASSIGNED HIS/HER WAGES? YES OR NO (CIRCLE ONE)

IF YES, WHEN AND TO WHOM WAS THE ASSIGNMENT MADE? _____

ARE YOU HONORING ANY OTHER GARNISHMENTS? YES OR NO (CIRCLE ONE)

IF SO, WHAT STATE AND COUNTY SERVED THE GARNISHMENT? _____

IF THE DEFENDANT NO LONGER WORKS FOR YOU, WHEN DID HIS/HER EMPLOYMENT END? _____

WHO DOES HE/SHE WORK FOR NOW? _____

Garnishee

Title

Date

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

SMALL CLAIMS DEPARTMENT

_____ ,	)	CASE NO. _____
)	
_____ ,)	
PLAINTIFF(S),)	
vs.	)	NOTICE OF APPEAL OF
	)	SMALL CLAIM JUDGMENT
_____ ,)	
)	
_____ ,)	
DEFENDANT(S),)	
)	
_____ ,)	

I am the _____ plaintiff _____ defendant (check one) in this case. A judgment was entered in this case:

_____ in favor of the defendant,

_____ in favor of the plaintiff,

_____ in the amount of: \$ _____

_____ for recovery of the following personal property: _____

I am appealing the decision in this case.

Signature

Date