

## PLATTE COUNTY CIRCUIT COURT

P.O. Box 306, 800 9<sup>th</sup> Street | Wheatland, WY 82201 | (307) 322-3441

### SMALL CLAIMS PROCEDURES

#### THE COURT

Small Claims Court is a division of the Circuit Court of the 8<sup>th</sup> Judicial District. Any case in which the amount in controversy does not exceed \$6,000.00 may be brought in Small Claims Court. The rules and procedures in Small Claims Court are simplified to make it easier for litigants to represent themselves, rather than feeling the need to hire attorneys. The parties may have a legal representation if they choose.

The person who files the case is the Plaintiff; the person against whom the case is filed is the Defendant. The Plaintiff has the burden of proving the case. Small Claims cases may only be filed in the County in which the Defendant resides.

#### FILING THE CASE

The Plaintiff opens a Small Claims case by filing an Affidavit and Summons, which is a sworn statement as to the basic claim information. The Clerk of Court will provide the Affidavit form. All information requested on the form must be provided. The Clerk is not an attorney and cannot give legal advice nor give any guidance in filling out the paperwork. In addition to the claim information, the Plaintiff must include on the Affidavit the Plaintiff and Defendant's name, address and telephone number.

#### FILING FEES AND COSTS

At the time the Affidavit is filed, the Plaintiff must pay the Circuit Court a total of \$10.00, for the filing fee. Personal checks are accepted, made payable to Circuit Court. The cost of serving your Small Claims Affidavit and Summons is \$50.00 per address. **We need two separate checks, one for Circuit Court and one for the Sheriff's Office.** These charges for the Sheriff are due at the time of filing. If the Plaintiff is awarded a judgment, these costs may be added to the judgment for payment by the Defendant. Also, Ruth Herdt, a process server, will serve the paperwork for you and she picks it up at our office. She charges \$30.00 (cash or check) for Wheatland, \$35.00 outside Wheatland.

#### TRIAL PROCEDURES

At the time the Affidavit is filed a court date will be set. This date will appear on the copy of the Summons that is served on the Defendant. By law, the court date cannot be less than 3 days, or more than 12 days after the Defendant is served. If service is not accomplished within this time period, the court date must be rescheduled. The Plaintiff should contact the Court the day before the court date to determine whether or not the Defendant has been served. If full payment is received before the court date, the Plaintiff must file a written Notice of Dismissal. The Plaintiff should also contact the Sheriff's Department to stop the service of the small claims papers, in case they had not been served at the time of payment.

Both parties must bring to the trial all of their evidence and any witnesses whom they want to testify. If there is any paperwork supporting or contradicting the claim, the original and two copies should be presented at the time of the trial.

The trial of a Small Claims case is less formal than a regular civil trial. Both parties and any witness are first sworn to tell the truth. The Plaintiff then presents his or her case in a narrative fashion, and the Defendant then has the same opportunity. The Judge/Magistrate will then make a decision based on the evidence presented.

## TYPES OF JUDGMENTS

There are several ways that a judgment may be obtained in a typical civil case. In Small Claims court, two types of judgments are most common. The usual way is for the Judge to render a decision in Court after the case is presented. However, a judgment may be entered by default in favor of the Plaintiff if the Defendant fails to appear for the trial. On the other hand, if the Plaintiff fails to appear, the case will be dismissed.

## OBTAINING PAYMENT

If either party obtains a Judgment, the Clerk will prepare a written Judgment for the Judge's signature. A copy will be provided for both parties.

The judgment creditor may seek payment of the Judgment by contacting the judgment debtor directly and agreeing to a payment plan. On the other hand, the judgment creditor may request the Court to issue a Writ of Execution to obtain funds or property from the judgment debtor, or a Writ of Garnishment or Continuing Garnishment to property, funds or wages belonging to the judgment debtor being held by a third party. It is the judgment creditor's responsibility to obtain payment of the Judgment; neither the Judge nor the Clerk has this duty. The cost of an execution is \$50.00, payable in advance. The costs are payable to the Platte County Sheriff.

## APPEAL

Either party may appeal the judgment to the District Court by filing a Notice of Appeal in the Circuit Court of the 8<sup>th</sup> Judicial District within 30 days of the entry of the judgment. A \$20.00 filing fee is paid to the Clerk of the Circuit Court and a \$85.00 filing fee for the Clerk of District Court for the appeal must be paid at the time the Notice of Appeal is filed.

Simply filing an appeal **WILL NOT** prevent the judgment creditor from enforcing the judgment. To prevent enforcement pending appeal, the judgment debtor must file for a Stay of Execution. A Stay of Execution on a money judgment (for a sum certain) will be granted **ONLY WHEN THE DEBTOR POSTS WITH THE COURT CASH, CERTIFIED FUNDS, OR A SURETY BOND, IN THE FULL AMOUNT OF THE JUDGMENT, COSTS, AND COSTS OF THE APPEAL.**

To stay execution on a judgment other than for money (for the return of property, for example), the judgment debtor must file for the Stay of Execution and ask for a hearing before the court. Notice must be given to all persons who are parties to the action. The appellant will be expected to satisfy the court other than by the debtor's own testimony that the debtor is and will be able to satisfy the judgment if the judgment is affirmed. **WITHOUT SUCH ASSURANCE, A STAY OF EXECUTION WILL NOT BE GRANTED.**

## SATISFACTION OF JUDGMENT

All payments received toward a Judgment must be reported to the Clerk of Court so that the official record will correctly reflect the amount actually due and owing at any given time. It is a violation of the law to fail to provide such information. If full payment is received before the Judgment is obtained, the Plaintiff must file a Notice of Dismissal with the Court. After Judgment, all partial payments must be reported, so that a Partial Satisfaction of Judgment may be entered. When full payment is made and reported to the Court as required, a Release and Satisfaction of Judgment must be signed and filed by the judgment creditor.

## FURTHER INFORMATION

If you have questions or require further information, please contact the Circuit Court of 8<sup>th</sup> Judicial District at the address or telephone number shown above and ask for the civil department. The Clerk in charge of the civil department will be happy to provide you with forms or information, and to answer your questions.

**CIRCUIT COURT, PLATTE COUNTY  
WHEATLAND, WYOMING**

\_\_\_\_\_  
PLAINTIFF,

VS.

DOCKET NO. \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT,

**SMALL CLAIMS AFFIDAVIT**

1. I, \_\_\_\_\_ (name of person signing this Affidavit), being duly sworn on oath, state the Defendant is justly indebted to the Plaintiff in the Principal sum of \$ \_\_\_\_\_, plus the filing fee of \$10.00, Sheriff's fees and for such other costs as Plaintiff is entitled. Plaintiff's claim is based upon the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Demand for payment has been made and payment refused.

**3. DEFENDANT'S CONTACT INFORMATION:**

- a. Business Address: \_\_\_\_\_
- b. Home Address: \_\_\_\_\_
- c. Mailing Address: \_\_\_\_\_
- d. Phone Number: Business: \_\_\_\_\_ Home: \_\_\_\_\_

4. I request judgment in the amount stated above.

STATE OF WYOMING     )  
  ) ss  
COUNTY OF PLATTE    )

Signed: \_\_\_\_\_  
(Plaintiff's Signature)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Judge/Magistrate/Clerk of Court/Notary Public

**5. PLAINTIFF'S CONTACT INFORMATION:**

- a. Business Address: \_\_\_\_\_
- b. Home Address: \_\_\_\_\_
- c. Mailing Address: \_\_\_\_\_
- d. Phone Number: Business: \_\_\_\_\_ Home: \_\_\_\_\_

**NOTICE TO PLAINTIFF AND DEFENDANT**

**TO THE PLAINTIFF AND DEFENDANT:** You are hereby notified that this case has been set for trial. If you choose to appear, you **MUST BRING** with you the witnesses, papers and evidence which will prove your case or defend your position. **IF YOU DON'T, YOU MAY LOSE YOUR CASE.**