

ALASKA SMALL CLAIMS HANDBOOK

**August 2021
Alaska Court System**

The forms mentioned in this booklet are available on the court system's website: www.courts.alaska.gov/forms/index.htm

Prepared by the

Alaska Court System

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Chapter I

INTRODUCTION TO SMALL CLAIMS

A. WHAT IS A SMALL CLAIMS CASE?

A small claims case is a simplified type of court case for a person to try to recover money or personal property worth \$10,000 or less. If your claim is over \$10,000, you can still use small claims court, but you must give up the right to collect any amount over \$10,000. You may, however, recover interest on any money you are awarded and court costs over the \$10,000 maximum.

The person who starts the case by suing someone is called the “plaintiff.” The person who is sued is called the “defendant.” The plaintiffs and defendants are called “parties” in the case.

You do not need a lawyer in a small claims case, although you may have one if you wish. Small claims court can only be used if all parties agree to use this simplified procedure.

Small claims procedure cannot be used for:

- disagreements about title to real property (land or buildings)
- actions to recover possession of real property (land or buildings)
- evictions
- claims against the State of Alaska or the United States government
- injunctive relief (a court order requiring a person to do or not to do a specified act)
- actions to foreclose or enforce statutory, common law, or possessory liens

This handbook explains small claims procedure. It is based primarily on the District Court rules established by the Alaska Supreme Court. A copy of these rules is included in Appendix A.

B. THE CHOICE: SMALL CLAIMS PROCEDURE OR FORMAL PROCEDURE.

There are two different court processes to sue in district court:

- (1) **Small Claims:** an informal process for claims up to \$10,000. [See the flowchart on page 5.](#)
- (2) **Formal Rules Case:** may be used for claims up to \$100,000, including claims for less than \$10,000 if one of the parties so chooses.¹

See flowchart at: <http://www.courts.alaska.gov/shc/debt/docs/debt-flowchart.pdf>.

For a comparison of these differences and others described below, [see the table on page 4.](#)

Formality of Procedure: In small claims court, pleadings and other documents you file with the court are brief and do not need to follow all the conventions required under formal rules. The court also provides forms for small claims court, rather than you having to create your own pleadings from scratch.

In a small claims trial, the judge can generally consider anything (with a few small exceptions) that relates to the facts and will help the judge decide the case. In a formal trial, the judge will apply the Alaska Rules of Evidence to decide what can be considered as evidence. If one side doesn't follow the Rules of Evidence, the other side can object to it. If the judge agrees with the objection, the judge or jury can't use that evidence to help make a decision.

There are also stricter rules about questioning witnesses in a formal trial, and the judge usually will not ask any questions. In a small claims trial, there are no rules about the format of your questions and the judge often takes a more active role in asking questions.

In a small claims case, the judge is allowed to investigate the claim on the judge's own initiative, in court or outside of it, as long as all the parties are present during the investigation. In a formal case, the judge is only allowed to consider evidence that the parties themselves bring to court.

¹ Claims over \$100,000 must be filed in superior court.

Attorney Fees: If you win your case, the court can order the other party to reimburse you some of your attorney fees if you had an attorney representing you. In small claims court, the most you can get for attorney's fees is \$1000.² In formal civil cases, you can usually get between 3-30% of your actual, reasonable attorney fees, although there is no maximum.³ Keep in mind that in both types of procedure, if you *lose* your case, you would likely have to pay this same portion of the attorney fees to the other party if the other party is represented by a lawyer.

Jury Trial and Judge: In a formal case, you have the right to "pre-empt" the assigned judge, as long as you follow the correct procedure to do so. To pre-empt a judge means that you can demand a different judge (one time only) without giving a reason. In a small claims case, you do not have the right to pre-empt the assigned judge or magistrate judge.

In a small claims case, your trial will be heard and decided by a judge or magistrate judge. You do not have a right to a jury trial in small claims cases. In a formal trial, you can demand a jury trial if you follow the correct procedure to request one. A jury trial can greatly increase the legal fees and costs in a case.

C. WHO CAN FILE A SMALL CLAIMS CASE.

Anyone 18 years of age or older may file.⁴ A person under age 18 is allowed to file only with the assistance of a parent or guardian. Partnerships, unincorporated associations, limited liability companies, and corporations may also file small claims cases.

D. WHO CAN BE SUED IN A SMALL CLAIMS CASE.

You can sue:

- Persons 18 years of age or older.
- Persons under 18, through their parent or guardian.
- Partnerships, unincorporated associations, limited liability companies, and corporations doing business in Alaska.
- A landlord residing outside Alaska (see AS 34.03.340).
- A nonresident owner or operator of a motor vehicle involved in an accident in Alaska (see AS 09.05.020).

If a person is outside Alaska, the person usually cannot be sued in small claims court unless a district court judge, rather than a magistrate judge, hears the case. This is because a magistrate judge may not hear a small claims case if the documents opening the case are delivered to the defendant outside the state, except in the last two situations in the bullet points listed above.⁵

E. HOW TO START A SMALL CLAIMS CASE.

Procedures for the plaintiff are in [Chapter II](#).

F. HOW TO RESPOND TO A SMALL CLAIMS COMPLAINT.

Procedures for the defendant are in [Chapter III](#).

G. FORMS.

Small claims forms are available at: <http://www.courts.alaska.gov/forms/index.htm#sc> or in paper copy from your local court clerk.

² District Court Civil Rule 20(c). The maximum may be less if you win a default judgment.

³ Civil Rule 82.

⁴ District Court Civil Rule 14 and AS 25.20.010. This age limitation does not apply to children who have gone through court emancipation proceedings under AS 09.55.590 or who are considered to have reached the age of majority under AS 25.20.020.

⁵ AS 22.15.120(b).

H. LAWYERS.

Most people who file or defend small claims cases do not use lawyers. Small claims procedures are designed to be used without a lawyer, but you can be represented by a lawyer if you wish.

Sometimes it is difficult to decide whether you should hire a lawyer. Some cases involving only small amounts of money or property can be complicated. If you are unsure about whether you should hire a lawyer, it is a good idea to talk to one about your case before you decide whether you can handle it alone. You can get information about finding a lawyer on the court's website: <http://www.courts.alaska.gov/shc/shclawyer.htm>. You can also call or write:

Lawyer Referral Service
Alaska Bar Association
P.O. Box 100279
Anchorage, AK 99510-0279
Anchorage Phone: (907) 272-0352
Outside Anchorage (toll free within Alaska): 1-800-770-9999
<https://alaskabar.org/for-lawyers/lawyer-referral-service/>

If any party in a small claims case requests formal rules, you may want to talk to a lawyer.

I. A SPECIAL SITUATION WHEN LAWYERS ARE NECESSARY.

The small claims rules require that the plaintiff be represented by a lawyer in a case to collect an "assigned claim."⁶ An assigned claim is when a person with the right to collect the claim has assigned (given or sold) this right to another person or to a collection agency. The defendant is not required to have a lawyer in this type of case.

If you are suing a person under age 18, a mentally incompetent person, or a person in the active military service, it is a good idea (though not required) to talk to a lawyer. There are special laws protecting these persons from default judgment, and it may be harder to represent yourself in these types of cases.

J. CAN SOMEONE OTHER THAN A LAWYER REPRESENT YOU IN A SMALL CLAIMS CASE?

No. Only lawyers (and some legal interns) may represent other people in court. The one exception is that a person under age 18 may be represented by a parent or guardian.

Powers of attorney cannot be used to authorize someone to represent you in small claims court. A power of attorney may authorize you to start a small claims case on behalf of another person, but you must hire a lawyer to represent the other person in the case.⁷

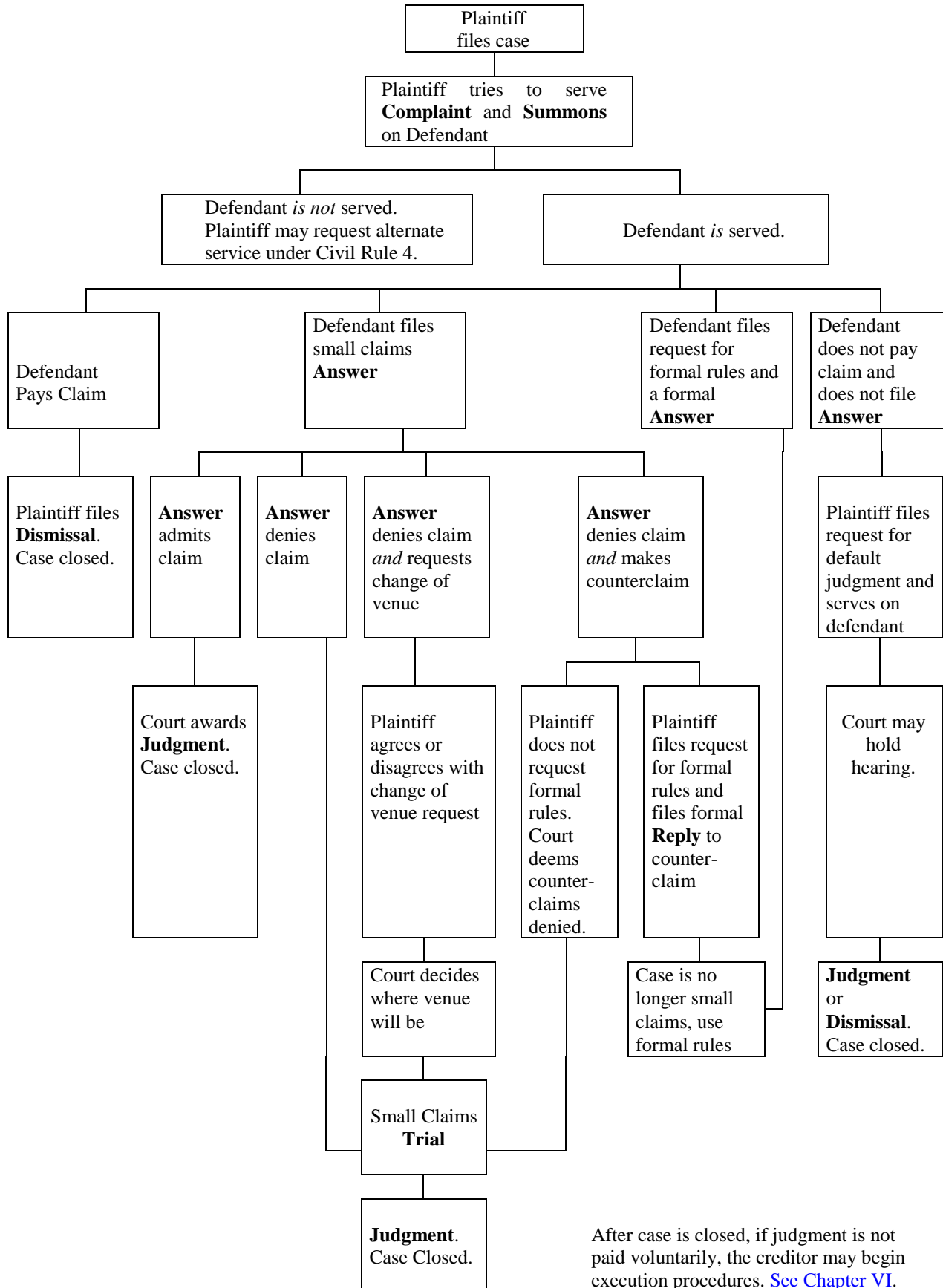
⁶ District Court Civil Rule 15(c).

⁷ *Christiansen v. Melinda*, 857 P.2d 345 Alaska (1993).

COMPARING PROCEDURES

	SMALL CLAIMS	FORMAL CIVIL
Filing Fee	\$50 if your claim is for \$2,500 or less \$100 if your claim is for more than \$2,500	\$150 in district court \$250 in superior court
Amount of Claim	Up to \$10,000	Up to \$100,000 in district court Any amount in superior court
Jury Trial	No	Yes, if one is requested
Need for a Lawyer	Usually no. The process is simplified and the court provides forms and information for both plaintiffs and defendants to represent themselves.	Usually yes. Most plaintiffs have lawyers, but many defendants represent themselves. The court system has some forms and information to help you represent yourself in a debt collection case, but it can be difficult to represent yourself in other kinds of cases, such as personal injury, property damage, or product liability.
Formal Rules of Evidence at Trial	No	Yes
Forms Supplied by Court	Yes	Very few
Service of Process Outside Alaska	Allowed in cases being heard by a district court judge. Dist. Ct. Civ. Rule 11(a), AS 22.15.120(b) When case is being heard by a magistrate judge, then allowed only as provided in: - AS 34.03.340 (service on nonresident landlord in Landlord-Tenant Act case), and - AS 09.05.020 (service on nonresident owner or operator of motor vehicle involved in accident in Alaska)	Allowed
Complexity of Procedures	There are approximately 15 to 20 court rules governing small claims procedure.	There are over 80 court rules governing formal civil procedure.
Estimated Time Before Trial	4 to 12 weeks after the defendant files an answer	6 months or more after the defendant files an answer

Sequence of Events in a Small Claims Case



After case is closed, if judgment is not paid voluntarily, the creditor may begin execution procedures. [See Chapter VI.](#)

Chapter II

HOW TO START A SMALL CLAIMS CASE

A. BEFORE YOU FILE.

It is usually a good idea to ask the defendant for what you want before you sue. It helps if your request is in writing.⁸ Your problem may be solved if the defendant decides to give you the money you are owed or return the personal property rather than face a lawsuit.

It is not expensive to file a small claims action. However, if you lose, you will lose the filing fee and any other court costs, and you may also have to pay the defendant's court costs. Lawsuits should not be used merely to harass people.

If you believe you have a good claim and can prove your case, you may file a case. Ask yourself whether you can show or tell the judge facts (called “evidence” in court) that will prove your case. Evidence can be your own testimony, the testimony of other people, documents, pictures, and even the testimony of the defendant (you can ask the defendant questions during trial, and the defendant must answer them under oath).

Be aware that the court will not actually give you your money if you win. All the court will give you is a judgment saying that you are entitled to collect the money from the defendant. If the defendant does not pay voluntarily, you must use another court procedure called “execution procedure” to try to enforce the judgment. Execution procedure will only be successful if the defendant has money or property that can be seized to pay the judgment. For more information, see <https://courts.alaska.gov/shc/debt/collection.htm> or ask the court clerk for a copy of *Execution Procedure: Judgment Creditor Booklet* (form [CIV-550](#)).

B. FILING PROCEDURES.

1. Where to File.

You must file your case "at a place which will not cause *unnecessary* expense or inconvenience to the defendant."⁹ You must choose at least one of these options:

1. The district court nearest where the defendant lives or works.
2. If the defendant caused you personal injury or damaged your property, you can file in the district court nearest to where the injury or damage occurred.
3. If you are suing a business, you can file in any district court where it does or solicits business (for example, where it has a store or an office or sends salespeople).

2. How to File.

STEP ONE: Get these forms from your local court clerk or online at <http://www.courts.alaska.gov/forms/index.htm#sc>:

1. **COMPLAINT** (form [SC-1](#))
2. **SUMMONS** (form [SC-2](#))
3. **ANSWER** (form [SC-3](#))

STEP TWO: Fill out these three forms as explained in [section C](#) on the next page.

STEP THREE: File the Complaint and Summons with the court (you do **not** need to file the Answer). Pay the filing fee according to [Administrative Rule 9](#). If you cannot afford the filing fee, you may request a waiver of the fee by filling out a *Request for Exemption from Payment of Fees* (form [TF-920](#)), available online or from your local court clerk.

⁸ In some cases, the law requires you to make a written request. For example, the statute that creates civil penalties for issuing bad checks requires the plaintiff to make a written demand (as defined in the statute) for payment at least 15 days before filing suit. AS 09.68.115.

⁹ District Court Civil Rule 12 (emphasis added).

STEP FOUR: After the court clerk has finished filling out the forms with the case information and signed the summons, you must serve all three forms—the Complaint, Summons, and Answer—on the defendant. Section D of this chapter explains service.

C. HOW TO FILL OUT THE FORMS.

1. Complaint

See the [sample Complaint](#) (form [SC-1](#)) on the next page. Please type or print when filling out the form. Use black ink.

- (a) Write the name of the city where the court is located.
- (b) Write your name. See NOTE ABOUT NAMES below.
- (c) Write defendant's name. See NOTE ABOUT NAMES below.

NOTE ABOUT NAMES: It is *very* important to name the plaintiff and defendant correctly. If you list the defendant's name incorrectly, you may not be able to collect any money even if you win your case.

To decide how to list the defendant's name, first decide who owes you money or is responsible for the injury to you. It may be an individual person, or several persons, or a business, or both a business and one or more individuals.

If you decide to sue more than one defendant, you must name each defendant separately. For example, if you intend to sue both John Smith individually and XYZ corporation, you must list both as defendants.

Example: JOHN R. SMITH, individually; and XYZ, INC., an Alaska corporation

If you decide to sue a business, you must find out whether the business is a corporation, a partnership, or another form of business. You need to know this in order to name the business correctly on the complaint.

1) PERSONS

You must list a first and last name for each party. Include middle names or initials if known. Spelling must be accurate.

NOTE: If you want to sue a husband and wife, name each one separately. Do not name them "Mr. and Mrs....."

Example: JEFFREY T. WILSON and MARY J. WILSON

2) CHILDREN

If the plaintiff or defendant is under age 18, both the minor and a parent or guardian must be named on the complaint.¹⁰ Minors must appear through their parents or other guardians.¹¹

Example: TOM SMITH, a minor, through his parent, JOHN R. SMITH

NOTE: If you are suing both a minor *and* the minor's parent, you must name them separately:

Example: TOM SMITH, a minor, through his parent, JOHN R. SMITH; and JOHN R. SMITH, individually

¹⁰ This does not apply to children who have gone through court emancipation proceedings under AS 09.55.590 or who are considered to have reached the age of majority under AS 25.20.020.

¹¹ District Court Civil Rule 14(a).

IN THE DISTRICT COURT FOR THE STATE OF ALASKA AT _____ (a)

_____ (b)

_____ Plaintiff(s),

_____ (c)

CASE NO. _____ (d) SC

_____ Defendant(s)

COMPLAINT

(e)

Plaintiff is a corporation that has paid its taxes due the state and filed its required reports.
 is not a corporation.

(f)

Defendant owes Plaintiff \$ _____ plus interest and court costs because:

which occurred at or near _____, Alaska, on or about _____

(g)

Plaintiff has has not asked Defendant in writing to pay what Defendant owes.

(h)

Plaintiff requests small claims procedure and gives up the right to a jury trial, formal procedure, and to collect more than \$10,000 in principal amount (unless the court decides to apply the formal Rules of Civil Procedure). This action is filed at a court that will not cause unnecessary expense or inconvenience to Defendant and is the court nearest to:
[Check all boxes that apply.]

(i)

the residence or place of employment of Defendant.
 where Defendant caused personal injury to Plaintiff or damage to Plaintiff's property.
 where Defendant does or solicits business.

(k)

Print Name (and Title, if applicable) Signature Date

Mailing Address City State ZIP

Phone Email*
* I agree to get court case documents at the email address above instead of by regular US mail.

(l)

NOTE: If you have documents that support your claim (for example: promissory notes, checks, receipts, bills, credit card agreement), attach them to this Complaint.

Read the Small Claims Handbook (form SC-100) for instructions on filling out, filing, and serving this document. You can get a copy of the handbook online or from your local court clerk.

3) BUSINESS

If a business is *not* a corporation, list the name of the owner(s), d/b/a (doing business as), and the name of the business.

Example: JOHN J. MILLER d/b/a John's Record Shop

If a business is a corporation, you must list the name of the business and identify it as a corporation.

Example: WORLD FISH CANNERY, INC., a corporation

You may search for corporation and non-corporation business license information on this website: <https://www.commerce.alaska.gov/cbp/main/>

You can also call or write to:

Business Not a Corporation:

Department of Commerce,
Community & Economic Development
Occupational Licensing Division
P. O. Box 110806
Juneau, Alaska 99811-0806

Juneau phone: (907) 465-2550
Anchorage phone: (907) 269-8160

Corporation:

Department of Commerce,
Community & Economic Development
P.O. Box 110808
Juneau, Alaska 99811-0808

Juneau Phone: (907) 465-2550
Anchorage Phone: (907) 269-8160

The following is available to the public: name of owner, name of business, business license number, type of business licensed to do, and mailing address. This information may also be available at your local library.

4) UNINCORPORATED ASSOCIATION

If the plaintiff or defendant is an unincorporated association, list the name of the association and identify it as an unincorporated association.

Example: BLUE RIDGE CONDOMINIUM ASSOCIATION,
an unincorporated association

5) PARTNERSHIP

If any party is a partnership, list the name of the partnership (or if there is no name, list the names of the partners) and its identity as a partnership.

Examples: a) CENTURY APARTMENT PROPERTIES, a partnership
b) MICHAEL G. MILLER, MARY T. MILLER and
GEORGE R. SMITH, partners in an unnamed partnership

ⓓ Leave blank. The court clerk will give you this information to fill in when you file.

ⓔ Check the correct box.

- Ⓕ Write the full amount you believe the defendant owes you and the reason why, even if it is over \$10,000. You will have to give up your claim to any amount over \$10,000, but it is important to state the full amount on this line so the judge will understand your claim.

If you are asking for a penalty listed in an Alaska statute (for example, bad check penalties under AS 09.68.115, or penalties for failure to refund a tenant's security deposit under AS 34.03.070(d)), you must write that in your complaint.

If you are asking for the return of personal property, write on the dollar amount line the approximate value of the property. The court needs to know this so it can decide jurisdiction (authority) to hear the case. If you want the property back (instead of money for the value of the property), be sure to state this clearly. Be aware, however, that if the property is gone and cannot be recovered, the only thing the court will be able to give you is a judgment for money.

If you are afraid the defendant will get rid of, sell, or misplace the item you want back—and it is very important to you that you get that exact item—it is a good idea to talk to a lawyer. In a formal civil trial, the judge could enter an order to protect the property early in the case; this is not possible in a small claims case.¹²

- Ⓖ Check the appropriate box.
- Ⓖ Read the first sentence in this paragraph to be sure you agree with it.
- Ⓖ Read the second sentence and then check one or more of the boxes. You *must* be able to check at least one of these boxes. In this section, you are affirming that you have complied with the rule described in [section B on page 6](#) about where small claims cases can be filed.
- Ⓖ Fill in all the contact information in this section. If you would like to get all your court documents sent to you by email instead of regular mail, check the box at the bottom next to the asterisk. Print or type everything except your signature. Be sure to include your title if you are filing on behalf of a business plaintiff. The [chart on the next page](#) shows who must sign the complaint.
- Ⓖ Attach to the complaint any documents that support your claim (for example: cancelled checks, bills, promissory notes, credit card agreement, etc.). You will need:
- 1) the original (or a copy) for the court *and*
 - 2) a copy for each defendant *and*
 - 3) a copy for your own records (if you are sending the originals to the court)

If you do not want to file your originals, you can attach copies. However, in some cases you will have to give the court the original document before the court can give you a judgment (for example: promissory notes, NSF checks, etc.) If you don't attach these documents now, your case may be delayed.

¹² For example, in a formal trial a judge could (1) order the item seized prior to trial (prejudgment attachment) or (2) issue a prejudgment restraining order requiring the defendant not to dispose of the item.

Who Must Sign the Complaint

<i>If the Plaintiff is:</i>	<i>The Complaint Must be Signed by the Lawyer Representing the Plaintiff or, if None, by:</i>
An individual person	That person
Two or more persons	Each person
A minor	A parent or guardian
A person doing business under an assumed business name	That person
An unincorporated association	<p>A person authorized in writing by the charter, bylaws, or governing body of the association</p> <p>The written authorization must be filed with the complaint.</p> <p>You must list the title or position in the association of the person who is signing.</p>
A partnership	One of the general partners
A corporation or a limited liability company	<p>One of the officers (for a corporation), a managing member (for a limited liability company), or an employee authorized in writing</p> <p>The written authorization must be signed by a corporate officer, a managing member of a limited liability company, or be a resolution of the board of directors of the corporation, and must be filed with the complaint.</p> <p>You must also list the title or position in the corporation or the limited liability company of the person who is signing.</p>

2. Summons (form [SC-2](#))

You must fill out a separate summons form for *each* defendant. Fill out as described below.

IN THE DISTRICT COURT FOR THE STATE OF ALASKA AT _____ (a)

_____, (b)
_____, Plaintiff(s)

_____, (c) CASE NO. _____ (d) SC
_____, Defendant(s)

SUMMONS

TO: _____ } (e)
ADDRESS: _____ }
_____ }

The plaintiff has filed a small claims action against you. You are required to answer the Complaint attached to this Summons. If you do not answer the Complaint, the court may enter a judgment against you for the amount claimed plus interest and court costs. This is a civil case. You are not accused of a crime. If you lose this case, the plaintiff can ask that the court take some of your wages, money, or property to pay the judgment.

This case has been filed under the rules of small claims procedure. You may choose to continue to use small claims rules (Part II of the District Court Rules of Civil Procedure) **or** you may choose to use the formal civil rules (Part I of the District Court Rules of Civil Procedure).

For more information, read *Alaska Small Claims Handbook* (form SC-100). It is available:

- online at <https://public.courts.alaska.gov/web/forms/docs/sc-100.pdf>
- as a printed booklet (ask in person at any court or contact local court to get by mail)

Chapter I of the *Handbook* explains the differences between small claims and formal rules. If you choose to continue with small claims rules, complete the attached *Answer* (form SC-3).

1. File your Answer in person at the courthouse or mail it to the District Court at:

_____ (f)
Address _____ City _____ ZIP _____

2. You must also give or send a copy to Plaintiff (or Plaintiff's attorney, if represented) at:

_____ (g)
Address _____ City _____ ZIP _____

(h) If this box is checked, you may email (instead of mail) a copy to Plaintiff at:

On lines (a), (b), and (c) of each summons, write the same things you wrote on these lines on your complaint.

Leave (d) blank for now. The court will give you this information to fill in when you file.

Section (e) is for the defendant's name and mailing address ([see section A](#) on the next page for more information about addresses).

e. PARTNERSHIP

The summons must be addressed to one of the following:

- 1) one of the general partners, or
- 2) a managing or general agent of the partnership, or
- 3) any agent authorized by appointment or by law to receive service of process, or
- 4) a person having control of the business of the partnership.

Examples: TO: Mike Miller, General Partner
Century Apartment Properties
(address)
or
TO: Joe Carter, Manager
Century Apartment Properties
(address)

f. LIMITED LIABILITY COMPANY

The summons must be addressed to one of the following:

- 1) the registered agent, or
- 2) a managing member, or
- 3) a managing or general agent of the limited liability company, or
- 4) any agent authorized by appointment or by law to receive service of process.
(See, for example, Alaska Statute 10.50.065(b) about limited liability companies.)

Examples: TO: Robert Adams
Registered Agent for Blackstone Investments, LLC
(address)
or
TO: Greg Jones, Managing Member
Blackstone Investments, LLC
(address)

g. CORPORATION

The summons must be addressed to one of the following:

- 1) the registered agent, or
- 2) an officer, or
- 3) a managing or general agent of the corporation, or
- 4) any agent authorized by appointment or by law to receive service of process.
(See, for example, Alaska Statute 10.06.175(b) about corporations and AS 21.09.180-.190 about insurance companies.)

Examples: TO: Tom Jones
Registered Agent for World Fish Cannery, Inc.
(address)
or
TO: Sally Smith, President
World Fish Cannery, Inc.
(address)
or
TO: Bill Brown, Manager
World Fish Cannery, Inc.
(address)

[See page 9 paragraph 3](#) for information about how to find the names of the registered agent and officers.

3. **ANSWER (form [SC-3](#))**

Fill out *only the top* of the answer form as shown below. Fill in lines (a), (b) and (c) the same way you filled in these lines on your complaint.

Leave (d) blank for now. The court will give you this information to fill in when you file.

IN THE DISTRICT COURT FOR THE STATE OF ALASKA AT _____ (a)	
_____ (b)	_____
_____	Plaintiff(s)
_____ (c)	_____
_____	Defendant(s)
Case No: _____ (d)	SC

Stop and do not fill out the rest of this form.

4. Once you file the forms with the court and pay the filing fee to start your case, the court clerk will complete the rest of each summons and assign a case number. Write this case number on line (d) of the complaint, each summons, and the answer if the court clerk did not already do so.

D. HOW TO GIVE NOTICE TO A SMALL CLAIMS DEFENDANT.

1. The following must be given to (“served” on) *each defendant* to notify them about the case:
 - a. the summons addressed to that defendant
 - b. a copy of the completed complaint
 - c. a copy of any supporting documents filed with the complaint
 - d. an answer form with the top filled out as described above

Your case will not proceed any further in court until you serve all of the defendants. There are two steps you must complete to move your case forward:

STEP ONE: **Serve** the documents listed above to each defendant. “Service” is a legal term for giving them the documents in a specific way. [Section 2 on the next page](#) describes how to serve the defendant(s).

STEP TWO: File **proof** with the court that you served the documents. [Section 3 on the next page](#) describes how to file proof of service.

You have 120 days from the date you file your small claims case in court to serve the defendant(s). If you do not complete the steps above within 120 days, your case may be dismissed.¹³

In cases being heard by a magistrate judge, defendants can only be served if they are within the State of Alaska. The only exceptions to this rule are: (1) out-of-state landlords may be served outside Alaska under the Landlord-Tenant Act (AS 34.03.340), and (2) an out-of-state person who owns or operates a motor vehicle involved in an accident in Alaska may be served as described in AS 09.05.020. In cases being heard by a district court judge, any small claims defendant may be served out-of-state.

¹³ Civil Rule 4(j).

2. There are two main methods of service: certified mail and process server. This handbook describes the basics of each. You can find more detail on each of these methods in *How to Serve a Summons* (form [CIV-106](#)), available online or as a booklet at your local court. There may be special rules that apply to service on the following types of defendants:
 - minors
 - mentally incompetent persons
 - persons in jail
 - persons in the military
 - a deceased person's estate
 - businesses, partnerships, associations, or corporations
 - defendants being served outside Alaska

It is a good idea to read the *How to Serve a Summons* booklet if you are trying to serve one of these types of defendants. You need to make sure that you are not overlooking any extra steps and that you are serving all of the correct representatives.

Certified Mail: This is the less expensive option to serve the required documents to start your case. Your local post office should be able to direct you to the proper forms and envelopes. Service by certified mail must be restricted delivery to the “Addressee Only” and “Return Receipt Requested.” Make sure you pay for these specific items so that only the defendant signs for the mail and you get the green card sent back to you when the defendant gets the documents.

Important: Save the green card when you receive it back from the defendant.

Process Server: Hiring a process server is more expensive than certified mail, but sometimes is a better option if the defendant refuses to sign for the certified mail. Choose a process server from the court clerk's list, available online here: <https://courts.alaska.gov/trialcourts/docs/process-servers.pdf>. You can also find a list of licensed process servers on the Department of Public Safety (Alaska State Troopers) website: <https://dps.alaska.gov/Statewide/R-I/PermitsLicensing/Home> (click on “Civilian Process Server List”). If there are no private process servers in your area, peace officers (usually state troopers) will serve process. It is up to you to choose a process server and arrange to pay for their services.¹⁴ Fill out the *Service Instructions* (form [CIV 615](#)) and give it to the process server along with the documents to be served. After the process server completes service, they will send or give you a proof of service document.

Important: Save the Proof of Service when you get it from the process server.

3. Once service is done, you must file an *Affidavit of Service* (form [SC-4](#)) with the court, describing what you did. You can use one SC-4 form for multiple defendants. Attach proof of service, such as certified mail receipts (green card) and documents you got back from the process server. Make a copy of this form and all attachments for your records, then file the original with the court.

E. WHAT TO DO IF YOU CAN'T SERVE THE DEFENDANT.

Sometimes, you may believe that the defendant is avoiding service, such as refusing to sign for the certified mail or hiding from the process server. Or perhaps you do not know where the defendant lives or can be found, even after doing research. In these cases, you may ask the court for permission to do an alternate service method, such as by posting on the court website or sending electronic documents to the defendant through social media. There are many extra steps involved before a judge is likely to allow you to do alternate service, and this handbook does not cover them. Good starting places for more detailed information are Civil Rule 4(e) and *How to Serve a Summons* (form [CIV-106](#)), available online or from the court clerk.

¹⁴ Fees are set by the individual process server. However, the maximum amount you may recover as costs from the defendant (if you win your case) is set by [Administrative Rule 11](#). The current amount recoverable is \$45.00 for each person on whom service is made. Additional amounts may be recovered for extra mileage or extra time spent serving the documents.

F. DEFENDANT'S RESPONSE.

Once the defendant is served, you must wait at least 20 days to see if the defendant files an answer.

1. No Answer.

If the defendant does not file an answer within 20 days (40 days if the defendant was served outside the United States) after the date of service, you may ask the court to enter a default judgment in your favor. Fill out the *Default Affidavit and Request for Judgment* (form [SC-8](#)). File it with the court and mail it to the defendant (regular mail to the address where the summons was served is acceptable—you do not need to use certified mail or a process server). The court may still allow the defendant to file an answer after the deadline has passed if the court has not yet entered the default judgment. The court must wait at least seven days after you make the default request before entering a default judgment.¹⁵

You may also have to give the court more information. For example, if the documents attached to your complaint do not fully prove the dollar amount of your claim, the court may have to hold a hearing to establish the amount of money you are owed. Also, if your case is to collect a promissory note, NSF check, or other negotiable instrument, you must give the court the original note or check or other document if you have not already done so. The rules require the court to cancel such instruments before judgment may be entered.

If the defendant is under age 18, in the active military service, or mentally incompetent, you may not be able to get a default judgment, because there are special laws protecting these persons. These laws may require appointing a lawyer or guardian for the defendant at your expense or may prevent you from getting a default.

2. Answer on Form SC-3.

By filing the answer on form SC-3, the defendant has agreed to use small claims rules.

- a. If the defendant agrees about owing you the money, the court will enter a judgment in your favor. If you are suing to collect a negotiable instrument, you must give the original to the court before the court will give you your judgment.
- b. If the defendant denies owing you the money and/or states a counterclaim, the court will schedule a trial and notify you and the defendant in writing of the place, date, and time of the trial.
- c. Counterclaim (see section 3 of form SC-3). If the defendant states a counterclaim against you, the judge will listen to and decide both the counterclaim and your original claim at the trial. If the defendant's counterclaim is for more than \$10,000, the defendant has waived (given up) the claim to any amount over \$10,000 to keep the case in small claims court.

If you want to stay in small claims court, you do not have to file a reply. The counterclaim is automatically denied by you, and the court will schedule a trial date.¹⁶

If you decide that you do **not** want to keep the case in small claims court after seeing the counterclaim, you can request formal rules instead of the small claims rules. The deadline to do this is 13 days from the date the defendant mailed the answer to you, or 10 days from the date you actually received it by hand-delivery, fax, or email. The court does not have any forms for this request.¹⁷ If you request formal procedures, all prior waivers of jury trial, formal procedure, and amounts in excess of \$10,000 will no longer be in effect. The case becomes a whole new case under different rules.¹⁸

¹⁵ District Court Civil Rule 17(a).

¹⁶ District Court Civil Rule 13(a).

¹⁷ For more information about debt collection cases under formal rules, see: <http://www.courts.alaska.gov/shc/debt/index.htm>.

¹⁸ District Court Civil Rule 10(c).

- d. Change of place of trial (see section 2 of form SC-3). If the answer requests a change of place of trial, you can oppose the move by filling out *Plaintiff's Response to Request for Change of Place of Trial* (form [SC-5](#)) and sending it to the court within 20 days from the date you received the answer. The court will consider both parties' statements and decide where the trial will be held. You will be notified of the court's decision.

3. Formal Answer and Request for Formal Rules

If the defendant (1) asks for the formal Rules of Civil Procedure instead of the small claims District Court Civil Rules, or (2) has a counterclaim in excess of \$10,000 and does not want to waive the excess, the defendant cannot use the *Answer* (form SC-3) provided with the summons. Instead, the defendant must, within 20 days (40 days if defendant was served outside the United States):

- file with the court (1) a written request for the formal rules, and (2) a formal answer to the complaint; and
- serve a copy of these documents on you; and
- file with the court proof that the documents were served on you.

If the defendant requests formal rules, the court will grant the request and send you an *Order for Formal Procedure*. At this point, small claims rule no longer apply. If your case is for debt collection, the court has more information, as well as forms, at <http://www.courts.alaska.gov/shc/debt/index.htm>. If you have a different type of case, you may want to talk to a lawyer for assistance, as the court does not have specialized forms or a website to help with other types of civil cases under formal rules. If the defendant requests formal procedures, all your prior waivers of jury trial, formal procedure, and amounts in excess of \$10,000 will no longer be in effect. The case becomes a whole new case under different rules.¹⁹

Important: If the defendant's formal answer includes a counterclaim against you, you must **file a reply** to that counterclaim (and serve a copy of your reply on the defendant) within 20 days after you receive the defendant's answer.²⁰ You can use *Answer to Counterclaim* (form [CIV-482](#)) or create your own reply following the formal rules. If you don't file a reply, a default judgment may be entered against you on the counterclaim. This is different from the small claims rules, which do not require you to reply to a counterclaim.

G. CHANGE OF ADDRESS, EMAIL, AND TELEPHONE NUMBER.²¹

Once the case is started, the court considers that you have received everything it mails (or emails, if you chose email service) to you at the address you provided. Similarly, the defendant only has to mail (or email) you documents to the address you provided to the court. Check your mail and/or email frequently to make sure you get copies of these important documents in a timely manner. Many court documents have strict deadlines for you to respond.

If you change your mailing address, email address, or telephone number while the case is pending, you must notify both the court and the defendant in writing. Use *Notice of Change of Contact Information* (form [TF-955](#)). If you want to change whether or not you receive court documents by email, file *Electronic Delivery of Case Documents* (form [TF-820](#)).

H. SETTLEMENT PRIOR TO TRIAL.

If at any time prior to trial the claim is settled between you and the defendant, you must file a *Dismissal* (form [SC-9](#)).

- If the claim is settled *before* the defendant files an answer, you must sign the section titled "Dismissal by Plaintiff."
- If the claim is settled *after* the defendant files an answer, both you and the defendant must sign the section titled "Dismissal by Stipulation."

¹⁹ District Court Civil Rule 10(c).

²⁰ Civil Rule 12.

²¹ District Court Civil Rule 11(c).

Chapter III

WHAT TO DO IF SOMEONE SUES YOU IN SMALL CLAIMS COURT

If someone sues you in small claims court, you are called the “defendant.” The person suing you is called the “plaintiff.” The plaintiffs and defendants are called “parties” in the case.

The plaintiff must give you a copy of the complaint, the summons, and a small claims *Answer* (form SC-3), as well as any attachments filed with the complaint. The plaintiff fills out the top of the answer and you fill out the rest if you agree to stay in small claims court.

A small claim is not a criminal action. The plaintiff is not seeking to have you put in jail. The plaintiff wants the court to order you to pay money and/or return personal property.

A. WHAT TO DO IF YOU ARE SERVED WITH A SUMMONS AND COMPLAINT.

1. Do not ignore the complaint and summons.

If you do, the court may enter a default judgment against you. Then, if you do not pay this judgment, the plaintiff may get other court orders to seize your money or property. If this happens, there will be extra costs that *you* will have to pay.

You have 20 days (40 days if you were served outside the United States) from the date you receive the summons to file your answer with the court. If you do not file an answer by the deadline, the plaintiff can ask the court for a default judgment against you at any time after the deadline passes.

2. Decide if you want to continue in small claims court or choose formal procedures.

Read [Chapter I](#) of this handbook for more information on the differences between these procedures. Form [SC-95](#) summarizes these differences on a chart.

If you decide to continue with small claims rules, complete the rest of the *Answer* (form [SC-3](#)) that was served on you with the complaint and the summons. You can also find a completely blank copy of this form online or ask for a new paper copy from your local court clerk. More information on how to fill out form SC-3 is in [paragraph C\(1\) on page 21](#).

If you want to move the case from small claims to formal rules, you cannot use the SC-3 Answer form that the plaintiff sent you. For more information on how to answer under formal rules, [see paragraph 2 on page 24](#).

3. File an answer, even if another defendant filed one.

Do not rely on someone else's answer. If you are named as a defendant in the complaint, you must file an answer. See the [chart on the next page](#) for who must sign the answer.

Read the complaint carefully. Try to remember everything you can about the incident or transaction that caused the plaintiff to sue you. Although you must file your answer within 20 days (40 days if you were served outside the United States), you may want to wait a few days before answering so that any emotional response has cooled, and you can write calmly and logically. Make sure your answer is a clear and direct response to the plaintiff's claim. Include any counterclaims you have against the plaintiff. If you want to talk to a lawyer, do so right away, so you still have enough time to file your answer with the court by the deadline.

Who Must Sign the Answer

<i>If the Defendant is:</i>	<i>The Answer Must be Signed by the Lawyer Representing the Defendant or, if None, by:</i>
An individual person	That person
Two or more persons	Each person
A minor	A parent or guardian
A person doing business under an assumed business name	That person
An unincorporated association	<p>A person authorized in writing by the charter, bylaws, or governing body of the association</p> <p>The written authorization must be filed with the answer.</p> <p>You must list the title or position in the association of the person who is signing.</p>
A partnership	One of the general partners
A corporation or limited liability company	<p>One of the officers (for a corporation), a managing member (for a limited liability company), or an employee authorized in writing</p> <p>The written authorization must be signed by a corporate officer, a managing member of a limited liability company, or be a resolution of the board of directors of the corporation, and must be filed with the answer.</p> <p>You must also list the title or position in the corporation or the limited liability company of the person who is signing.</p>

B. IF YOU AGREE WITH WHAT THE PLAINTIFF SAYS

1. Settle the case. If you agree with what the plaintiff says, you may want to contact the plaintiff to settle the matter between yourselves. If you settle the matter with the plaintiff, the small claims case can be dismissed. A *Dismissal* (form [SC-9](#)) must be signed by both of you and filed with the court by the plaintiff.
2. Admit to the court. If you agree with what the plaintiff says, but have not settled the claim with the plaintiff, mark the box on the answer form that says: "I agree with what Plaintiff claims." This will end your case, you will not have a court date or a trial, and the judge will award the plaintiff a judgment in the amount the plaintiff asked for, plus costs and interest.

Do **not** fill in any other check boxes or numbered sections. Sign and date the form. Fill out the certificate of service for how and when you are giving a copy to the plaintiff. Make two copies. Keep one copy. Return the original to the court and send or give the second copy to the plaintiff within 20 days (40 days if you were served outside the United States) from the date you received the summons.

You must wait for the court to issue the judgment before you can make the full payment. This is because the judge first needs to decide how much you owe in court costs and interest on top of the principal amount. Once you receive the judgment, you can pay the plaintiff directly (make sure to get a receipt or acknowledgment) or send or give your payment to the court. If you send it to the court, make your check payable to "Clerk of Court" and *write your case number* on the memo line of the check.

C. IF YOU DO NOT AGREE WITH WHAT THE PLAINTIFF SAYS.

If you disagree with what the plaintiff says, you must file an answer with the court. First, decide whether you want the small claims rules (Part II District Court Civil Rules) or the formal rules (Part I District Court Civil Rules) to apply to your case (read [Chapter I](#) of this handbook for more information on the differences between the two). If you want the small claims rules, fill out the rest of the *Answer* (form [SC-3](#)) the plaintiff sent you, as explained in [paragraph 1 below](#). If you want the formal civil rules, you must draft a formal answer as described in [paragraph 2 on page 24](#). You may **not** use the SC-3 Answer form if you choose formal rules. If you want to talk to a lawyer to help you decide what to do, you must do it quickly, because you must file either your small claims or your formal answer within 20 days (40 days if you were served outside the United States).

1. Draft your Answer under Small Claims Rules.

[See the sample Answer](#) (form [SC-3](#)) on the next page. Please type or print when filling out the form. Use black ink.

- (a) These sections should have already been filled out for you. If they are not (or if you'd rather fill them out yourself), write the information *exactly the same* as it appears on your summons.
- (b) If you check this box, skip down to section (g). [See section B\(2\) above](#) for more details.
- (c) If you disagree with what the plaintiff is asking for, check this box and explain why. Also fill out the section for what you *do* believe that you owe the plaintiff. If you don't believe that you owe the plaintiff anything, write \$0. If you are agreeing to return a specific item of personal property that the plaintiff is asking for, write the approximate value of the item on the dollar amount line.

IN THE DISTRICT COURT FOR THE STATE OF ALASKA AT _____ (a) _____

_____ (a) _____

_____ Plaintiff(s),

_____ (a) _____

CASE NO. _____ (a) _____ SC

_____ Defendant(s).

**ANSWER, COUNTERCLAIM, and
REQUEST FOR CHANGE OF PLACE OF TRIAL**

[Only defendants who choose small claims procedure may use this form. Do not use this form if you choose the formal rules in Part I of the District Court Rules of Civil Procedure.]

1. **ANSWER.** Defendant answers the complaint as follows:

(b) I agree with what Plaintiff claims.

(c) I disagree with what Plaintiff claims, because:

I believe that I owe Plaintiff: \$ _____

(d) COUNTERCLAIM. Plaintiff owes me \$ _____ because:

[(1) The most you can receive in a counterclaim in small claims court is \$10,000. (2) If you file a counterclaim for any amount, Plaintiff may choose to proceed under the formal District Court rules, and this case would no longer be a small claims case.]

2. **REQUEST FOR CHANGE OF PLACE OF TRIAL.**

(e) I request that the court change the place of trial to _____, Alaska, because:

(f) 3. **SMALL CLAIMS ELECTION.** I understand I have the right to proceed under Part I of the District Court Rules of Civil Procedure. However, I CHOOSE SMALL CLAIMS PROCEDURE. I give up my right to a jury trial, formal procedure, and to collect more than \$10,000 in principal amount (unless the court decides to apply the formal Rules of Civil Procedure).

Print Name (and Title, if applicable)

Signature

Date

(g) _____

Mailing Address

City

State

ZIP

Phone _____ Email* _____

* I agree to get court case documents at the email address above instead of by regular US mail.

(h) **NOTE:** If you have documents that support your claim (for example: promissory notes, checks, receipts, bills, credit card agreement), attach them to this Answer.

Read the *Small Claims Handbook* (form SC-100) for instructions on filling out, filing, and serving this document. You can get a copy of the handbook online or from your local court clerk.

Certificate of Service

(i) I certify on _____ at _____ [date/time] I gave a copy of this document and all attachments to Plaintiff(s) by Mail Email Hand-Delivery Other Method: _____

Signature: _____

- Ⓓ If you believe the plaintiff owes you money, check this box and write the amount you believe the plaintiff owes you and the reason why. Write the full amount the plaintiff owes you, even if it is over \$10,000. You will have to give up your claim to any amount over \$10,000, but it is important to state the full amount on this line so the judge will understand your claim.

If you are seeking a penalty listed in an Alaska statute (for example, bad check penalties under AS 09.68.115, or penalties for failure to refund a tenant's security deposit under AS 34.03.070(d)), you must write that in your counterclaim.

If you are asking for the return of personal property, write on the dollar value line the approximate value of the property. The court needs to know this so it can decide jurisdiction (authority) to hear the case. If you want the property back (instead of money for the value of the property), be sure to state this clearly. Be aware, however, that if the property is gone and cannot be recovered, the only thing the court will be able to give you is a judgment for money.

If you are afraid the plaintiff will get rid of, sell, or misplace the item you want back—and it is very important to you that you get that exact item—it is a good idea to talk to a lawyer. In a formal civil trial, the judge could enter an order to protect the property early in the case; this is not possible in a small claims case.²²

- Ⓔ If you believe the trial should be held in another location, complete this section. You may request a change of place of trial if you will be put to *unnecessary* expense or inconvenience if the trial is held where the case is filed. You may also request a change in the place of trial if the case was filed in a court location that is *none* of the following:
- the residence or place of employment of any defendant
 - where a defendant's alleged wrongful conduct caused personal injury to the plaintiff or damage to the plaintiff's property
 - where any defendant does or solicits business (for example, where it has a store or an office or sends salespeople).

If you request a change of place of trial, the plaintiff has 20 days to respond. The court will consider both parties' statements and decide where the trial will be held. You will be notified of the court's decision.

- Ⓕ Read this paragraph and make sure you agree with it. If you do not agree with this paragraph, then you cannot use this form and must file an answer under the formal rules ([see section 2 on the next page](#)).
- Ⓖ Fill in all the contact information in this section. If you would like to get all your court documents sent to you by email instead of regular mail, check the box at the bottom next to the asterisk. Print or type everything except your signature. Be sure to include your title if you are answering for a business defendant.
- Ⓗ If you have documents supporting your defense or your counterclaim (for example: checks, receipts, bills, credit card agreement), you must attach them to the answer.
- Ⓖ You must **serve** the plaintiff with a copy of your answer and all attachments. Fill out the certificate of service with the date that you will mail, email, or give your documents to the plaintiff; select the method you used; and sign it.

File and Serve: Make two copies of your answer and all attachments in Ⓗ Keep one set of copies for your records. File the original answer and attachments in the court where the case was opened (even if you are asking to change court locations). Send the second set of copies to the plaintiff at the mailing address (or email address, if the plaintiff agreed to email service) provided on the complaint. The court will then schedule the case for trial and notify you and the plaintiff in writing of the place, date, and time of the trial.

²² For example, in a formal trial a judge could (1) order the item seized prior to trial (prejudgment attachment) or (2) issue a prejudgment restraining order requiring the plaintiff not to dispose of the item.

2. Draft your Answer under Formal Rules.

If you want to move the case from small claims to formal rules, you cannot use the SC-3 Answer form that the plaintiff sent you. Instead, you must file with the court (1) a written request for formal rules and (2) a formal answer to the complaint.

In debt collection cases, you may cover both of these steps by filing *Answer & Counterclaim to Complaint to Collect a Debt* (form [CIV-481](#)), available online or from your local court clerk. Check the first box on the form that states you want to move to District Court and use the formal rules and procedure. By checking this box, you are agreeing to the case being heard as a civil case to collect a debt according to the formal Rules of Civil Procedure and Evidence instead of the more informal small claims process.

In other types of civil cases besides debt collection, the court does not provide specialized forms to opt into formal rules or answer the complaint under formal rules. You will have to draft your own document in compliance with Civil Rules 7 through 16, 76, and 77. You may want to seek the assistance of a lawyer in this situation.

Serve your original answer and attachments with the court, serve a copy on the plaintiff, and file proof of service with the court. You must do all this within 20 days (40 days if you were served outside the United States) after you receive the summons and complaint, or risk having a default judgment entered against you.

By choosing to open the case as a small claim, the plaintiff gave up (waived) the right to a jury trial, formal procedure, and amounts in excess of \$10,000. This waiver is no longer valid if you file an answer under formal rules. Under formal rules, either party may request a jury trial, may ask the court to award more than \$10,000, and formal procedure will apply. The case becomes a whole new case under different rules.²³

D. REPLY TO COUNTERCLAIM.

If you filed a counterclaim in your small claims answer, the plaintiff has the option to ask for formal rules. To do this, the plaintiff must file in court (and serve you with a copy of) (1) a written request for formal rules, and (2) a reply to your counterclaim within 10 days of receiving your answer. If the plaintiff does this, the court will automatically grant the request and send you an *Order for Formal Procedure*. Prior waivers by both you and the plaintiff of jury trial, formal procedure, and amounts in excess of \$10,000 will no longer be in effect. The case becomes a whole new case under different rules.²⁴ The court does not provide forms or other special assistance for civil cases under formal rules (except for debt collections cases, which you can read more about at <http://www.courts.alaska.gov/shc/debt/index.htm>). You may wish to speak to a lawyer if the plaintiff chooses formal rules in the reply.

E. CHANGE OF ADDRESS, EMAIL, AND TELEPHONE NUMBER.²⁵

Once you file your answer, the court considers that you have received everything it mails (or emails, if you chose email service) to you at the address you provided. Similarly, from then on, the plaintiff only has to mail (or email) you documents to the address you provided to the court. Check your mail and/or email frequently to make sure you get copies of these important documents in a timely manner. Many court documents have strict deadlines for you to respond.

If you change your mailing address, email address, or telephone number while the case is pending, you must notify both the court and the plaintiff in writing. Use *Notice of Change of Contact Information* (form [TF-955](#)). If you want to change whether or not you receive court documents by email, file *Electronic Delivery of Case Documents* (form [TF-820](#)).

²³ District Court Civil Rule 10(c).

²⁴ District Court Civil Rule 10(c).

²⁵ District Court Civil Rule 11(c).

Chapter IV

PREPARING FOR TRIAL

Once the complaint and the answer are filed, most small claims cases are ready for trial. The court will send you a *Notice of Trial*, telling you when and where the trial will happen. You must appear on that date and be prepared to present your side of the dispute. **Do not miss your trial date.** If the plaintiff fails to appear at the trial, the court may dismiss the case. If the plaintiff is there and the defendant fails to appear, the court may grant a default judgment against the defendant.²⁶

A. COLLECT EVIDENCE.

The most important thing to do while waiting for trial is to get your evidence together. Collect any papers, legal documents, photographs, or other physical evidence supporting your claim and bring them to your trial. Examples are:

- contracts, bills/invoices, receipts, cancelled checks, money orders
- medical records in personal injury cases
- letters, text messages, or emails from the opposing party
- an estimate of repair costs (it is best to have more than one estimate if possible)
- the actual damaged item (if it is small enough to bring to court)
- pictures of larger items such as a damaged car, boat, or building
- photos or videos of injuries or an accident scene

If you have electronic evidence, it is best to print it out if you can, or have a plan on how to display it in court on a larger screen than a cell phone. The court will *not* upload files to its own equipment.

B. CONTACT WITNESSES.

Witnesses are another source of evidence. Examples are:

- a person who saw how you got injured or how your property was damaged
- a person who heard statements made to you by the other party
- a person who saw damaged goods when they were delivered
- a person who sold you something or accepted your payment

Sometimes you may want to have a witness such as a mechanic or appliance repairman tell the judge how much something is damaged or whether it is defective. You should let this witness examine the damaged or defective object ahead of trial if possible.

Bring your witnesses with you to the trial. If your witness has a good reason for not being able to be there in person, file a *Request for Telephonic Participation* (form [SC-31](#)). If all you have is a written statement from a witness, the judge may consider it. However, it is much better if the witness can testify live and answer questions.

C. SUBPOENA WITNESSES IF NECESSARY.

If you believe a witness may not come to court when you ask, you can get a “subpoena” from the court clerk. A subpoena is a court order requiring a person to appear and testify in court. If a witness does not appear at trial, and you did not get a subpoena ahead of time, you must continue without that witness. For more information, read *How to Subpoena a Witness* (form [CIV-109](#)). You will have to pay the witness a small fee if the witness is under subpoena.

D. PREPARE OUTLINE AND PRACTICE.

Organize your evidence and make an outline of the main points. Decide what order you want your witnesses (including yourself) to testify. You can check off each point on your outline during trial to make sure you remember to tell the judge all the important facts. Focus on the most relevant evidence that will help the judge understand your claim. An outline will also help you not get sidetracked from the main issues. Practice by presenting your case to a friend or family member. If possible, go to court on a day before your trial to watch another small claim trial, so you are more familiar with the process.

²⁶ District Court Civil Rule 17.

Chapter V

TRIAL

If you have difficulty hearing, tell the clerk and ask to use the assisted listening equipment available in the courtroom.

A. BEFORE TRIAL.

Get to court a little early on the day of your trial. This will give you time to get familiar with the courtroom. In larger court locations, make sure to leave enough time to find parking and to go through security. There are no strict rules of dress, but you should be neat and clean. Do not wear any clothes with words or pictures on them that might be considered offensive. Bring a pen and paper in case you need to take notes during your trial.

In small towns and villages, the court may be only a single room and yours may be the only case scheduled. In cities, there will be a courthouse with several courtrooms. There may be several cases scheduled for the same time as yours. If you cannot tell from your notice of trial which courtroom your trial will be in, ask the court clerk or receptionist for directions.

You may have to wait before your case is called. The judge may announce all the cases to be heard on that date, or there may be a printed "calendar" of cases posted outside the courtroom or at the clerk's office.

B. SUGGESTIONS ABOUT SETTLEMENT.

Before trial, the judge may suggest that you and the other party try to mediate the case. Some courts have volunteer, neutral mediators that can help you settle a case without trial. Sometimes, a different judge from your trial judge will be willing to do a settlement conference. Or the parties can try one last time to talk between themselves. Mediations and settlement conferences are private and confidential, and if the case does not settle, nobody can use what you said during them against you at trial. The trial judge may also suggest some terms of settlement during the trial. You are not required to settle the case, but often the judge's suggestions will be helpful.

One of the benefits of settlement is that you have a certain outcome that you can comfortably live with, even if it is not 100% what you wanted. Trials are uncertain, and even if you think you have a strong case, you may lose and get nothing (if you are the plaintiff or have a counterclaim) or have the full judgment entered against you (if you are the defendant).

Some other benefits of settlement include:

- **For the plaintiff:** The defendant is much more likely to be willing and able to pay the money if the defendant agreed to it. It can be costly and time-consuming (and sometimes unsuccessful) to execute a judgment against a defendant who won't pay voluntarily (see [Chapter VI](#) for more information on execution of judgments).
- **For the defendant:** You are able to avoid having a court judgment against you (judgments can lower your credit rating and even make it harder to get certain kinds of jobs). Also, settlements often include payment terms (such as monthly payments or lower interest) that are more favorable than a judgment would be.
- **For both parties:** You may prefer a private settlement over having all of the details of your dispute on the public record at trial. Trials can often (though not always) be more contentious and emotionally draining than mediations or settlements. You may decide it is worth it to give up some of what you want to avoid that experience.

The court will never force you to mediate or settle your case, but it is a good idea to at least consider it.

C. DURING TRIAL.

Each party in the case gets a chance to present evidence under the guidance and direction of the judge. The plaintiff will go first, then the defendant. Sometimes, the judge will give either or both parties a chance to go again, called “rebuttal.” You should not assume that you will get a second chance though, so you should present all of the evidence you think is important on your first turn.

You must present your own case at the trial or have your lawyer present it for you. No one except you, your lawyer, or a qualified legal intern (or your parent or guardian if you are a minor) can represent you in court. Powers of attorney do not allow a non-lawyer to represent someone in a small claims case.

Some suggestions for presenting your case:

1. Start with a sentence or two summarizing what your case is about.
2. Then describe in more detail what happened and when it happened. Usually it is best to tell your story in chronological order. Stay on the subject. Try not to ramble or get sidetracked.
3. If you have documents, photos, or other physical items, show them to the judge while you testify (or during the testimony of another witness who can describe the items). It is usually not very effective to give the judge a pile of papers or photos without explanation. Instead, use these items as support for what you are testifying about.
4. If you have witnesses, tell the judge you would like to call them to the witness stand. All witnesses (including yourself and the opposing party) must take an oath to tell the truth before they testify. Ask your witnesses questions to get them to tell the judge what they know about your claim. When you are done asking questions, the opposing party has a chance to ask your witnesses questions (you will have the same chance to ask questions of the opposing party’s witnesses). The judge may ask questions at any time.
5. You and the opposing party will also have a chance to ask each other questions. Do not get into an argument with the opposing party. Listen carefully to the question and just answer it. If you want to explain more, you can do so after the opposing party is done asking you questions. It is difficult for most people to ask questions of the opposing party, because the person may not answer the question in the way you expect or want. This can be frustrating and is often not the best way to get information to the judge. It may be easier and more effective for you to just tell the judge during your own testimony why you disagree with what the other party said.
6. When the judge, other witnesses, or the opposing party are speaking, sit quietly at your table. Do not interrupt, even if you hear something upsetting or that you believe is untrue. Take notes so you will remember to respond to what you heard when it is your turn to speak. Comments and questions are not proper until the judge gives you permission.

D. END OF TRIAL.

At the end of the trial, the judge will decide the case based on the evidence presented. The judge may do this immediately. Or the judge may want to think about it some more and make a decision later (this is called “taking the case under advisement”).

The court will either give you a copy of its final judgment at the end of trial or mail it to you.

The court may keep any items of evidence used during trial for at least 30 days in case either party appeals. You can ask for it back after this time. Alternatively, the court may give you back your evidence right away. You should keep it safe for at least 30 days in case of appeal.

Chapter VI

AFTER TRIAL

The judge will decide who wins the case. The judge may award either party all, part, or none of the party's claim. The judge's decision is called a "judgment." The judge will fill out a *Judgment* form and either give it to the parties or mail it to them. The party who wins a money judgment is called the "judgment creditor," and the losing party is called the "judgment debtor."

A. HOW TO PAY THE JUDGMENT.

If you are the debtor, you can pay the creditor directly. Be sure to get a receipt. If for any reason you cannot make payment directly to the creditor, you may pay the court. If you pay the court, make your check payable to "Clerk of Court" and *write your case number* on your check. The court will forward the money to the judgment creditor.

After you have paid the judgment and all your checks have cleared the bank, ask the judgment creditor to sign a *Satisfaction of Judgment* (form [SC-17](#)). This form is available online or in paper copy from your local court clerk. The judgment creditor must give you (the judgment debtor) a written acknowledgment that the judgment has been satisfied (unless the payment comes from executing upon your earnings or property).²⁷ The creditor must also file this *Satisfaction of Judgment* with the court.²⁸

B. INSTALLMENT PAYMENTS ON THE JUDGMENT.

If the parties agree that payments may be made in installments, **both** parties must complete and file with the court a *Stipulation to Pay Judgment in Installments* (form [SC-18](#)).

Stipulation to Pay Judgment in Installments:

1. Allows the judgment creditor to receive payments on a regular basis without incurring costs of execution.
2. Allows the judgment debtor to make a series of partial payments without incurring additional costs. As long as the debtor makes the payments as agreed, the court will not issue a *Writ of Execution* (defined in section C below) against the debtor's wages, property, or bank accounts.

If the debtor fails to pay as agreed, the court will issue a *Writ of Execution* against the debtor's wages, property, or bank accounts at the request of the creditor. To make this request, the creditor must file with the court an affidavit stating the debtor has not complied with the installment payments agreement.

C. JUDGMENT DEBTOR REFUSES TO PAY JUDGMENT.

If the judgment debtor will not pay voluntarily, the judgment creditor may ask the court to issue a *Writ of Execution*, which is a court order directing a peace officer or process server to take property of the debtor to pay the judgment. Property can include money, bank accounts, wages, personal and real property, or any other asset belonging to the debtor that has value.

For more information, see *Execution Procedure: Judgment Creditor Booklet* ([CIV-550](#)). For information about the rights of the debtor, see *Judgment Debtor Booklet* ([CIV-511](#)). Both booklets are available online or from the court clerk.

²⁷ AS 09.30.300

²⁸ District Court Civil Rule 20(e).

D. RELIEF FROM JUDGMENT.

1. Request to Set Aside Default Judgment

If you think a default judgment was improperly entered against you, you can ask the court to set aside the judgment. No more than one year must have passed since the date of the default judgment.²⁹ To do this, complete and file with the court a *Request to Set Aside Default Judgment* (form [SC-24](#)). You must show two things:

1. You have evidence that could win the case if there were a trial; and
2. You had a valid reason for failing to file an answer or appear at trial.

The other party gets an opportunity to respond in writing to your request. The court will review both statements and notify you in writing of its decision. The court will not set aside a default judgment unless you give a good reason.

Filing a *Request to Set Aside Default Judgment* does **not** automatically stop the judgment creditor from collecting on the judgment. If you wish to keep the creditor from having a *Writ of Execution* issued against you, you must (1) file a motion requesting a stay of execution, and (2) file a bond or make a cash deposit with the court in the amount of the judgment, plus interest. The court does not have forms for this. Contact the court for further information on how to post a bond.

2. Appeals

If either party believes the court applied the law incorrectly or made a decision that was not supported by the evidence, that party may appeal the judgment to the superior court. An appeal does **not** automatically give you a new trial.

The superior court will **not** look at or hear any new evidence. The only information the superior court will consider on appeal is (1) the audio recording of the trial (including witness testimony), (2) any physical or electronic items presented as evidence at the trial, (3) the documents in the court file, and (4) legal memoranda.

To appeal, you must file a *Notice of Appeal* (form [AP-100](#)) in the superior court within 30 days from the date the judgment is sent or given to you. Filing a *Notice of Appeal* does not prevent the creditor from enforcing (collecting) the judgment. Appeals are complicated, and you should consider seeing a lawyer if you want to appeal.

For more information about how to appeal your case, see *Appellant Instructions: District Court to Superior Court Appeals* (form [AP-200](#)), available online or from the court clerk.

²⁹ District Court Civil Rule 19. See Civil Rule 60(b) for exceptions.

Appendix A

SMALL CLAIMS STATUTE

Sec. 22.15.040. Small claims.

(a) Except as otherwise provided in this subsection, when a claim for relief does not exceed \$10,000, exclusive of costs, interest, and attorney fees, and request is so made, the district judge or magistrate shall hear the action as a small claim unless important or unusual points of law are involved or the state is a defendant. The Department of Labor and Workforce Development may bring an action as a small claim under this subsection for the payment of wages under AS 23.05.220 in an amount not to exceed \$20,000, exclusive of costs, interest, and attorney fees. The supreme court shall prescribe the procedural rules and standard forms to assure simplicity and the expeditious handling of small claims.

(b) All potential small claim litigants shall be informed if mediation, conciliation, and arbitration services are available as an alternative to litigation.

DISTRICT COURT CIVIL RULES

RULE 8. SCOPE AND APPLICABILITY.

(a) The following procedure applies to a small claim action:

(1) When all parties elect small claims procedure, a small claim action, as defined by AS 22.15.040, is governed by:

- (A) this Part (Part II of the District Court Rules of Civil Procedure, Small Claims Rules);
- (B) applicable portions of Civil Rules 5, 5.1, 5.3, and 6; and
- (C) other rules specifically referenced in this Part (Part II of the District Court Rules of Civil Procedure, Small Claims Rules).

(2) When the parties do not elect small claim procedure, a small claim action is governed by Part I of the District Court Rules of Civil Procedure.

(b) A party having a claim or claims exceeding the maximum amount of a small claim as defined by AS 22.15.040 may waive the right to recover the excess amount and elect to proceed under this Part II, by filing a written waiver of the excess amount.

(c) Actions to foreclose or enforce statutory, common law or possessory liens and actions for recovery of real property may not be brought as small claims actions. The court may, on its own motion, order the rules in Part I to apply in any other action when important or difficult questions of fact or law are involved.

RULE 9. INFORMALITY.

Formality in pleadings, motions, and the introduction of evidence is not required. A writing filed as a complaint, answer, or application shall be legible and brief.

RULE 10. PLEADINGS.

(a) A small claim action is commenced by filing a complaint on the form provided by the Alaska court system. The complaint is a short, plain written statement showing the nature of the claim for relief, signed by the plaintiff. The complaint shall contain a statement that the plaintiff elects to have the claim treated as a small claim and waives the right to jury trial and the right to proceed formally. A complaint which does not contain a waiver of the right to jury trial and formal proceedings is governed by Part I of the District Court Rules of Civil Procedure. The plaintiff's mailing address shall be shown on the complaint. When the complaint is based upon a written document, the document or a copy of it shall be attached to the complaint.

- (b) A party defending against a claim shall file an answer on the form provided by the Alaska court system. The answer is a short, plain statement showing the nature of the defense and any claim that the defendant has against the plaintiff arising from the same transaction or occurrence and shall conform with Rule 12 of these rules. The answer must be filed with or mailed to the court where the action was commenced and be signed by the defendant. When the answer or counterclaim is based upon a written document, the document or a copy of it shall be attached to the answer. The defendant's mailing address shall be shown on the answer. The defendant shall serve a copy of the answer on the plaintiff.
- (c) An answer form shall be served with the complaint and shall advise the defendant of the right to proceed informally under this Part II or formally under Part I of these rules. The form shall contain a statement that when the defendant requests informal proceedings, the defendant waives the right to trial by jury and to proceed formally. A plaintiff against whom a counterclaim is filed shall have ten days after such claim is mailed to the plaintiff to withdraw the plaintiff's election to proceed under Part II, and failure to withdraw the election waives the plaintiff's right to trial by jury and formal procedure as to the counterclaim.
- (d) A defendant who does not wish to contest the claim may default by failing to file an answer or may file an answer agreeing with the complaint. The latter shall be sufficient basis for entry of judgment on the pleadings by the court or clerk when the claim is for a specific amount of damages.

RULE 11. PROCESS.

- (a) The summons shall be issued and the summons and complaint served, according to the procedures of Civil Rule 4, except that service on a defendant who is outside the state shall be allowed
 - (1) in accordance with AS 34.03.340 of the Landlord-Tenant Act;
 - (2) in accordance with AS 09.05.020, entitled Service of Process on Nonresident Owner or Operator of Motor Vehicle; or
 - (3) as otherwise permitted under Civil Rule 4.
- (b) The summons shall include instructions for accessing the Alaska Small Claims Handbook on the Alaska Court System's website or requesting a printed copy from the clerk. A blank answer form shall be served with the summons and complaint.
- (c) All parties shall inform the court and other parties of any change in mailing address during the pendency of the action. The parties are deemed to have received all documents mailed to them at the addresses furnished by them.
- (d) Civil Rule 45(a), (b), (c), (e), and (f), concerning subpoenas is incorporated in these rules for the purpose of securing the attendance of witnesses at trial, except that the fee tendered with a subpoena need only cover the fees for mileage and for one-half day's attendance if the person's attendance, including travel time, requires no more than three consecutive hours.

RULE 12. VENUE.

- (a) The action shall be filed and the complaint shall contain a statement that it is filed:
 - (1) At the nearest place to the residence or place of employment of an individual defendant; or
 - (2) At the place where the defendant's alleged wrongful conduct caused personal injury or damage to the plaintiff's property; or
 - (3) At a place where the defendant does or solicits business; and
 - (4) At a place which will not cause unnecessary expense or inconvenience to the defendant.

- (b) The answer shall contain any application of the defendant for change of place of trial. The change shall be granted if the action is not filed in accordance with Rule 12(a). An effective waiver of Rule 12(a) can be made only after the commencement of the action.
- (c) The plaintiff shall have twenty days from service of the answer by the defendant to file a statement opposing an application for change of place of trial. The court shall consider the application upon the statements of the parties, and shall issue an order granting or denying the application. A copy of the order shall be sent to the parties by first class mail at the addresses shown on their pleadings. When the application is granted, the file shall be transferred. When the application is denied, the court shall set the action for trial.

RULE 13. DEFENSES AND OBJECTIONS --- WHEN AND HOW PRESENTED.

- (a) A defendant shall file or state an answer within 20 days after service of the summons and complaint upon the defendant. A counterclaim shall be deemed denied by the plaintiff.
- (b) When an answer is plainly insufficient to state a defense, the court may on its own motion enter judgment on the pleadings without trial. A judgment on the pleadings shall state the reasons for its entry.

RULE 14. JOINDER OF PARTIES AND CLAIMS.

- (a) Minors and other persons under legal disability may appear only through guardians, guardians ad litem, or conservators.
- (b) Any person having a claim or against whom a claim is made arising from the same transaction or occurrence which gave rise to the complaint may be joined as a party to the action.
- (c) Persons having a joint interest in the subject matter of the action and other persons whose participation is necessary for the court to give complete relief to those already parties shall be joined in the action if the court can obtain jurisdiction over them.
- (d) Parties may be added or dropped by order of the court on application of any party or on its own motion at any stage of the action and on such terms as are just. A person not already a party to the action added by the court shall be served copies of all pleadings and a summons in the manner provided by these rules unless such service is waived.
- (e) A party may join any number of claims arising from any number of transactions and occurrences against an opposing party, so long as the total amount of the claims does not exceed the small claim jurisdictional limitation.
- (f) The court may order any claim against any party to be severed and proceed to try it separately.

RULE 15. ATTORNEYS -- INTERNS.

- (a) A corporation or other public or private organization may be represented in any stage of a small claims proceeding including an appeal by any officer or employee authorized in writing to represent it, AS 22.20.040 notwithstanding.
- (b) Any party to a small claims action may be represented at any stage of the proceedings by an attorney at law or a legal intern.
- (c) Any party, except an attorney at law, asserting a claim as an assignee thereof, whether for collection, fee, or value, shall be represented at all stages of an action upon the claim by an attorney at law, or a legal intern. On application of a party or on its own motion, the court shall dismiss without prejudice any action filed or proceeded with in violation of this rule.
- (d) Representation of a party by a legal intern at any stage of an action shall be governed by Part IV of the Alaska Bar Rules.

RULE 16. TRIAL.

- (a) Every small claims action shall be tried by the court without a jury. A judge may not be peremptorily challenged either under Civil Rule 42(c) or AS 22.20.022.
- (b) The court may admit any evidence that is relevant and material, despite the fact that such evidence might be inadmissible under formal rules of evidence.
- (c) The court may investigate the controversy between the parties either in or out of court. The investigation must be made in the presence of the parties and the findings of fact resulting from the investigation must be stated on the record or reduced to writing and placed in the case file by the court.
- (d) Testimony shall be given under oath and may be given in narrative fashion, and the examination of witnesses shall be informal. An adverse party has the right to cross-examine a party or witness. The court may take an active role in the examination of witnesses.
- (e) The court may, at any time, consult with the parties on the record for the purpose of reaching a compromise or conciliation.
- (f) The date set for trial shall be not less than 15 days from the date the court mails notice of the trial date to the parties.

RULE 17. JUDGMENT.

- (a) If the defendant fails to answer the complaint within 20 days after service of process or fails to attend the trial, the defendant is in default. Default judgment shall be entered only after the plaintiff files an affidavit made upon good faith belief, after diligent inquiry, stating that the defendant is not an infant or otherwise incompetent, and that the defendant is not in the active military service of the United States or, if the plaintiff is unable to determine whether the defendant is in military service, stating that the plaintiff is unable to determine that fact. Unless proof of service has been previously filed with the court, the plaintiff must attach proof of service showing that the summons and complaint were served on the defendant. The court shall also require proof under oath, made upon personal knowledge or based on business records, of the truth of every essential element of the claim for relief. The clerk may enter a default judgment if the damages alleged are liquidated and no default hearing is required. If the defendant answers but fails to appear at trial, the court may nevertheless consider any relevant and material evidence filed with the answer. The court may allow an answer to be filed after the defendant is in default, but before judgment is entered, upon a showing of good cause. The plaintiff may move the court to enter a default judgment if the defendant is in default. Affidavits or exhibits necessary to the entry of default judgment under this rule shall accompany the motion. The motion, including affidavits and exhibits, must be served on the defendant. Default may not be entered less than seven days following service of the motion.
- (b) Judgment on the pleadings may be entered pursuant to Rules 13(b) and 10(d).
- (c) If the plaintiff fails to attend the trial, the plaintiff is in default. When neither party appears, the court may dismiss the action with prejudice. When the defendant appears and the plaintiff does not, the court shall inquire of the defendant concerning the validity of the defendant's defense and the defendant's knowledge, if any, of the reasons for the plaintiff's absence. The court may then, in its discretion, enter judgment dismissing the claim with prejudice. If the defendant has asserted a counterclaim, it shall be disposed of according to paragraph (a) of this rule.

- (d) When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all of the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.
- (e) A default judgment shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a default judgment is entered, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the pleadings.
- (f) **Dismissal for Want of Prosecution.** Actions which have been pending in a court for more than six months without any proceedings having been taken may be dismissed as a matter of course for want of prosecution by the court on its own motion or on motion of a party to the action. The clerk shall review all pending cases semi-annually, and in all cases in which no proceedings have been taken for more than six months, shall send notice to the parties to show cause in writing why the action should not be dismissed. If good cause to the contrary is not shown within 30 days of distribution of the notice, the court shall dismiss the action. The clerk may dismiss actions under this paragraph if a party has not opposed dismissal. A dismissal for want of prosecution is without prejudice unless the court states in the order that the case is dismissed with prejudice.
- (g) A claim may be dismissed with or without prejudice and without court order at any time by agreement of the parties, or upon written notice by the plaintiff at any time before the defendant has filed an answer. A dismissal with prejudice bars action in any court based on the claim dismissed.
- (h) Judgment by confession may be entered pursuant to Civil Rule 57. Judgment pursuant to a compromise may be entered by written agreement of the parties or by oral declarations on the record at trial.
- (i) After trial, the court shall enter judgment. The judgment need not be supported by findings of fact or conclusions of law. The judgment shall specify the exact relief given.
- (j) If the judgment is entered upon a written instrument, the instrument shall be filed with the court and canceled by marks or writing across its face, unless the court orders otherwise.
- (k) The court or the clerk may order a money judgment payable in installments and stay levy of execution upon stipulation of the parties. In the event the judgment is ordered payable in installments, it shall bear interest as provided by law. If the terms of a judgment made payable in installments are violated, execution may issue for the balance of the judgment remaining unpaid.
- (l) The clerk shall distribute a copy of every order or judgment entered to all parties to the action. Every order and judgment shall include a clerk's certificate of distribution as defined in Civil Rule 58.1(d).

RULE 18. APPEAL.

Either party may appeal a judgment or an order refusing to relieve any party from a default. The procedure on appeal shall be governed by the rules for appeal of judgments of the district court to the superior court, except that the superior court shall grant trial de novo if the proceedings in the district court were not of record.

RULE 19. RELIEF FROM JUDGMENT.

Civil Rule 60 applies to motions for relief from judgment in small claim actions.

RULE 20. REMEDIES.

- (a) A small claims judgment may be enforced in the same manner as other judgments. No execution shall issue for two days after the date shown in the clerk's certificate of distribution on the judgment.
- (b) No attachment or garnishment shall issue before judgment in a small claim action.
- (c) Costs shall be allowed as a matter of course to a prevailing party. Allowable costs include the filing fee and other charges made by the court, the expense of service of process, and witness fees. An award of attorney's fees may also be made, but shall not exceed \$1,000. In cases where a default judgment is entered against a defendant, the clerk may enter the award of costs, as well as attorney's fees of 10% of the judgment or reasonable actual fees, whichever is less.
- (d) A party may deposit with the court all or any part of any sum of money or any other thing capable of manual delivery which is sought in the action or due under a judgment. The party making the deposit shall inform all other parties to the action of the deposit. The court shall be governed by Rule 5, Alaska Rules Governing the Administration of All Courts, and shall release the deposit to the party entitled to it when the party becomes entitled to it. No interest shall accrue against a party making a deposit, to the extent of the deposit, after it is made.
- (e) When the judgment has been satisfied, the judgment creditor shall file an acknowledgment of satisfaction with the court. The court may issue a satisfaction of judgment if the judgment debtor, by motion served on the judgment creditor, establishes that the judgment has been satisfied. The clerk may issue the satisfaction if the motion is unopposed.

RULE 21. ASSISTANCE TO LITIGANTS -- HANDBOOK.

The court system shall prepare the Alaska Small Claims Handbook and make it available on the court system's website. Courts must also have physical copies of the handbook available to the public. Magistrate judges and clerks of any district court are authorized, when necessary, to assist litigants in the preparation of complaints and answers and service of process forms. If a litigant needs assistance, the clerk or magistrate judge should first refer the litigant to the handbook. If a litigant needs additional assistance because the litigant cannot read or write the English language or is physically unable to write, and the litigant is unable to obtain assistance from a friend or relative, the clerk or magistrate judge shall write the litigant's information and response on the appropriate form. A form written by the clerk or magistrate judge shall be signed by the litigant. The clerk or magistrate judge shall note on the form that he or she wrote it for the litigant under this rule.

RULE 22. LEGAL EFFECT OF RULES.

- (a) The forms published by the Alaska Court System to accompany these rules are legally sufficient and are intended to indicate the simplicity and brevity which the rules contemplate.
- (b) The Alaska Small Claims Handbook published by the Alaska Court System to accompany these rules is not a rule of court.
- (c) The forms for the complaint, the summons and the answer published by the Alaska Court System shall be used by the parties. All other forms are illustrative and not mandatory.

ALASKA COURT SYSTEM MAILING ADDRESSES

825 WEST 4TH AVENUE
ANCHORAGE, AK 99501-2004
(Mail here for St. Paul Island &
Sand Point)

BOX 250
ANGOON, AK 99820-0250

BOX 147
ANIAK, AK 99557-0147

BOX 130
BETHEL, AK 99559-0130

PO BOX 898
CORDOVA, AK 99574-0898

BOX 401
DELTA JCT, AK 99737-0401

PO BOX 909
DILLINGHAM, AK 99576-0909

BOX 176
EMMONAK, AK 99581-0176

101 LACEY STREET
FAIRBANKS, AK 99701-4761

BOX 211
FORT YUKON, AK 99740-0211

BOX 167
GALENA, AK 99741-1067

PO BOX 86
GLENNALLEN, AK 99588-0086

BOX 169
HAINES, AK 99827-0169

3670 LAKE STREET
BUILDING A
HOMER, AK 99603-7686

BOX 430
HOONAH, AK 99829-0430

BOX 89
HOOPER BAY, AK 99604

BOX 114100
JUNEAU, AK 99811-4100

BOX 100
KAKE, AK 99830-0100

125 TRADING BAY DR
SUITE 100
KENAI, AK 99611-7717

415 MAIN STREET, RM 400
KETCHIKAN, AK 99901-6399

PO BOX 529
KLAWOCK, AK 99925
(Prince of Wales)

204 MISSION ROAD, RM 124
KODIAK, AK 99615-7312

PO BOX 317
KOTZEBUE, AK 99752-0317

PO BOX 229
NAKNEK, AK 99633-0229

BOX 449
NENANA, AK 99760-0449

PO BOX 1110
NOME, AK 99762-1110

435 SOUTH DENALI STREET
PALMER, AK 99645-6487

BOX 1009
PETERSBURG, AK 99833-1009

PO BOX 1929
SEWARD, AK 99664-1929

304 LAKE STREET, RM 203
SITKA, AK 99835-7759

BOX 495
SKAGWAY, AK 99840-0495

BOX 187
TOK, AK 99780-0187

PO BOX 250
UNALAKLEET, AK 99684-0250

PO BOX 245
UNALASKA, AK 99685-0245

BOX 270
UTQIAGVIK, AK 99723-0270
(Formerly Barrow)

PO BOX 127
VALDEZ, AK 99686-0127

BOX 869
WRANGELL, AK 99929-0869

BOX 426
YAKUTAT, AK 99689-0426