

LA PAZ COUNTY
PARKER JUSTICE COURT
PRECINCT NUMBER #1506
*1105 Arizona Avenue
Parker, Arizona 85344
Phone: 928-669-2504*

SMALL CLAIMS FILINGS
INSTRUCTIONS TO PLAINTIFF

THIS IS YOUR CASE. YOU ARE SOLELY RESPONSIBLE FOR PROSECUTING OR DEFENDING THE CLAIM. THERE ARE CERTAIN STEPS YOU MUST FOLLOW TO PURSUE IT PROPERLY. THIS INFORMATION IS PROVIDED TO ASSIST YOU IN GENERAL PROCEDURES IN PROCESSING YOUR CASE THROUGH THE COURT. FOR YOUR CONVENIENCE, THE COURT PROVIDES CERTAIN BASIC FORMS FOR YOUR USE.

CLERK DUTY: The clerks are not attorneys and are not authorized to give legal advice. Please do not ask them to do so. They are charged with the duty of providing forms and requested assistance to all parties regarding jurisdiction venue or procedure of the small claims division.

It is not the court clerks' responsibility to advise you if you have a legal claim or what you should put on your claims. The clerk is not responsible for any error you may make in asserting or defending your claim.

The court does not take sides or render an opinion regarding the merits of a claim.

WHO MAY REPRESENT IN A SMALL CLAIMS ACTION:

The statutes governing small claims procedures set forth who may file a small claims action or appear or represent on behalf of such action. (ARS 22-512A,B)

1. An individual shall represent himself/herself. (A sole proprietor shall represent himself/herself)
2. Either spouse or both may represent a marital community.
3. An active general partner or an authorized full-time employee shall represent a partnership.
4. A full-time officer or authorized employee shall represent a corporation.
5. An active member or an authorized full-time employee shall represent an association.
6. Any other organization or entity shall be represented by one of its active members or authorized full-time employees.

If you are representing a partnership, an association, or any other organization – please provide the court with a letter stating your position and authority to represent an action on behalf of the partnership, association or organization.

If you are a full-time employee representing a corporation- please provide the court with a letter stating your position and authority to represent the corporation. The letter must be signed by a corporate officer.

You may NOT file a Small Claims if:

The action involves a claim of defamation by libel or slander

The action involves forcible entry, forcible detainer or unlawful detainer

The action involves a claim for specific performance

The action is brought or defended on behalf of a class

The action requests relief by or involves prejudgment remedies

The action is seeking injunctive relief

The action involves traffic violations or criminal matters

The action is against this State, its political subdivision or against its officers or employees, acting in an official capacity (ARS 22-503B)

The plaintiff must be the original owner of a claim and may not sue on an assigned claim. However, after judgment a party may make an assignment of the judgment (ARS 22-512)

JURISDICTIONAL LIMIT: The plaintiff may file for any amount not to exceed \$3,500.00. A larger claim may be reduced to \$3,500.00 and waive the remaining amount. A claim may NOT be split by filing two separate actions. The plaintiff may ask for reimbursement of court costs in addition to the \$3,500.00 maximum. Court costs include but are not limited to filing service fees. A prevailing defendant may also ask for reimbursement of court costs. (ARS 22-503A)

COURT FEES:	COMPLAINT FILING FEE	\$25.00
	SUBSEQUENT FILING (ANSWER) FEE	\$15.00
	COUNTERCLAIM FEE	\$25.00

CASHIER’S CHECK OR MONEY ORDER, OR VISA OR MASTERCARD (SUBJECT TO PROCESSING FEE) ONLY ARE ACCEPTED BY COURT.

ATTORNEYS: AN ATTORNEY CANNOT APPEAR OR REPRESENT EITHER PARTY IN THE SMALL CLAIMS DIVISION UNLESS:

- He/She is representing himself or herself.
- Both parties agree to the use of attorneys and file a STIPULATION TO USE OF ATTORNEYS, a form the court can provide. A stipulation to use attorneys must be filed at least 24 hours before the scheduled court date.

However, any party has the right to choose to be represented by counsel and may file a request to transfer the case to the civil division for the purpose. The case will then be transferred to the Civil Division and appropriate fees charged to the party requesting the transfer.

After entry of judgment, the prevailing party has a right to employ and attorney to pursue available rights and remedies for collecting the judgment award.

METHODS OF SERVICE: In addition to any other available methods of service, the plaintiff may serve the summons and complaint by registered or certified mail. To ensure the named party defendant signs the returned receipt, ‘restricted delivery’ should be used. Service may be completed by the Sheriff’s Office, also.

If the claim is against a corporation, the statutory agent, or an officer of the corporation must be served on behalf of the corporation named in the complaint. You may obtain the name and address of a statutory agent or corporate officer by calling the Arizona Corporation Commission (602-542-3026) or visiting www.cc.state.az.us. Service is deemed complete upon the delivery of the mailing to the defendant and signed by the defendant as evidenced on the return receipt (green U.S.P.O. receipt) filed in the court. Put your case number on the top of the back of the green card and address the green Receipt Card to **PARKER JUSTICE COURT, 1105 Arizona Avenue, Parker, Arizona 85344.**

If the postal service does not enter a date of delivery or the date is not legible, service is deemed complete on the date the return receipt is filed with the court.

The plaintiff may file the return receipt (the green card) with the court in person or by first class mail.

If the defendant doesn’t receive, refuses to accept, or the incorrect person signs for the registered letter, then the Defendant has NOT YET been properly served. Your other options are to use personal service by a licensed process server, the Constable, or the La Paz County Sheriff.

EACH NAMED DEFENDANT MUST BE SERVED A COPY OF THE COMPLAINT/SUMMONS.

You have 120 days to serve the Summons and Complaint.

SERVICE AFTER APPEARANCE: A copy of all pleading filed with the court must be mailed or delivered to the opposing party.

FILING AND ANSWER: The defendant has twenty (20) days to file an answer to the complaint with the court. The case will then be set for trial. Failure to file and answer may result in a default judgment. (The defendant should provide the court with a proper mailing address.) (ARS 22-514)

Dismissal: The plaintiff may dismiss the claim at any time prior to defendant filing an answer or other responsive pleading. Once the defendant has filed an answer both parties must stipulate to a dismissal (agree in writing). The court can provide a STIPULATION FOR DISMISSAL form for your use.

MOTION FOR CHANGE OF VENUE: Venue means the proper geographical area (precinct) in which a court may hear a case. If the defendant files a motion alleging that the action was filed in the wrong precinct and the court orders a change of venue, the case shall be transferred to the proper precinct and the plaintiff shall pay all fees. If you oppose a motion for change of venue, you must file an objection in writing within ten (10) days after service of the motion. The Plaintiff must file the complaint in the Justice Court in which the defendant resides or operates a business, or where the act giving rise to the claim took place. (ARS 22-505)

FILING A COUNTERCLAIM: If the defendant wishes to file a counterclaim, it should be filed at the time the answer is filed (see methods of service above). If the defendant does file a counterclaim against the plaintiff, the plaintiff has twenty (20) days to file an answer to the defendant's counterclaim or a default judgment may be entered against the plaintiff for failure to answer the counterclaim.

If the defendant files a counterclaim and the amount claimed exceeds \$3,500.00, the court shall terminate the designation as a small claims action and transfer the case to the civil division.

If the court determines that the amount claimed is not in excess of the small claims jurisdiction and was asserted solely for the purpose of avoiding the small claims proceedings, the court shall award the plaintiff court costs, plus reasonable attorney fees incurred in defending the counterclaim. (ARS 22-517)

DEFAULT: If the defendant does not file an answer to a complaint, or if the plaintiff does not file an answer to a counterclaim, within twenty (20) days after service is complete, an APPLICATION FOR ENTRY OF DEFAULT may be filed with the court. If the party claimed to be in default fails to file a responsive pleading within 10 judicial days (court workdays) of the notice of entry of default, the default will take effect and judgment by default may be entered. The court will accept an answer or other responsive pleading at any time prior to judgment.

SETTING FOR TRIAL: The trial date will be set for a date within sixty (60) days after the answer has been filed with the court by the defendant. All parties will be notified of the trial date and time by mail. (ARS 22-515A)

It is your responsibility to keep the court informed of any address change. Be sure to come on the right day and time. If you fail to appear at the trial, your claim may be dismissed, or a judgment entered against you. (ARS 22-515B)

TRANSFER TO REGULAR CIVIL DIVISION OF JUSTICE COURT: Either party may transfer a small claims case to the civil division up to ten (10) judicial days before trial. The party requesting the transfer will be assessed civil filing fees. (ARS 22-504A)

HEARING OFFICERS: Either a Justice of the Peace or an appointed Volunteer Hearing Officer may hear your case. Any party may object to the use of a hearing officer prior to the hearing date. The court can provide you with a form to make an objection. The case will then be referred to and heard by the Justice of the Peace. (ARS 22-506)

**You CANNOT have your small claims case heard before a jury.
THERE ARE NO APPEALS IN SMALL CLAIMS COURT.**

REQUEST TO CONTINUE COURT DATE: If for some reason you find that you are unable to appear for trial on the date and time scheduled, you may file a REQUEST FOR CONTINUANCE with the court, showing good cause why you are unable to appear. The Judge will consider the merits of your request and either grant or deny it. The request for continuance must be in writing (original signature) and should be timely filed – at least ten (10) judicial days prior to the trial date. (ARS 22-515C)

THE TRIAL: You must appear for the trial. Bring to the trial anything necessary or relevant to establish or defend the claim or counterclaim. As an example: books, papers, bill, pictures of damages, or other exhibits. Please bring the original and two copies of any papers. Keep each original together with the two copies. Your exhibits will be labeled by the court. The Judge will not accept evidence after the trial. Either party may also bring witnesses to testify on your behalf to substantiate your position. Any evidence deemed material, relevant, and competent may be admitted. (ARS 22-516)

If the case is settled before the scheduled trial date, be sure to notify the court. A stipulated DISMISSAL form must be filed. Within ten (10) judicial days of the trial, a copy of the Judgment Order will be mailed to each party.

MOTION TO VACATE THE JUDGMENT: A Motion to Vacate Judgment is one of only two motions allowed in the Small Claims action. A Motion to Vacate Judgment can be filed by either party to vacate a Default Judgment or a Judgment of the court following a hearing. If you oppose a motion to vacate the judgment, you must file an objection in writing ten days after service of the motion.

If the motion to vacate judgment is the defendant's first filing, the defendant must pay a 414.00 filing fee. The motion must be served in the same manner as if serving a summons and complaint. (ARS 22-505)

You DO NOT have the right to appeal. The decision of the Hearing Officer of Justice of the Peace is final and binding on both parties. (ARS 22-519)

If you wish to preserve your right to appeal, either party may have the case transferred to the civil division of the justice court. You may do this any time up to ten (10) days before trial.

IF YOU ARE AWARDED JUDGMENT: The plaintiff may be awarded a judgment on the claim against the defendant or the defendant may be awarded a judgment of a counterclaim (if one was filed_ against the plaintiff. The party awarded judgment is known as the Judgment Creditor and party who the judgment is against is known as the Judgment Debtor.

To obtain information about the Judgment Debtor's employment, bank accounts or other assets, you may ask the Court for an order for a debtor's examination. This may be done immediately following the trial or at any other time after judgment. Additional fees and costs are required for issuing and serving an order for a debtor's examination (called an Order for Supplemental Proceedings).

- A Writ of Garnishment of earnings can be issued after you make a formal written demand for payment of the judgment amount.
- A Writ of Garnishment of non-earnings can be issued to garnish other assets, such as bank account or other income property.
- A Writ of Execution empowers the Constable or Sheriff to levy on non-exempt personal property of value. You must provide a description and location of the property.

The court clerk can provide you with the necessary garnishment or execution forms. Additional fees and costs are required for issuing and service Writs of Garnishment and Writs of execution.

If your judgment is the result of an automobile accident and remains unpaid 60 days after the judgment has been entered and you notify the court, the clerk will report the non-payment to the Arizona Department of Transportation, Motor Vehicle Division, pursuant to ARS 28-4071.

When you are paid in full you must file a SATISFACTION OF JUDGMENT with the court. This form is available from the court.

HOW TO DESIGNATE DEFENDANT(S)

INDIVIDUAL

JOHN JONES
1234 SOUTH MAIN STREET
MESA, ARIZONA 85201

PARENT OF A MINOR

John and Mary Jones, husband and wife
Parents of Johnny Jones, a minor
1234 South Main Street
Mesa, Arizona 85201

CORPORATION

ABC Candy Store, Inc.
1234 South Main Street
Mesa, Arizona 85201
SERVE: John Jones, Statutory Agent*
5678 North Notsoezee Street
Mesa, Arizona 85201

*Service may also be affected upon an officer or the corporation – President, Vice-President, Secretary or Treasurer

SOLE OWNERSHIP

John Jones, DBA
Jones' Delicious Candy Shoppe
1234 South Main Street
Mesa, Arizona 85201

HUSBAND AND WIFE

John and Mary Jones, husband and wife 1234 South Main Street Mesa, Arizona 85201 <i>SERVE: John Jones</i>	John and Mary Jones, husband and wife 1234 South Main Street Mesa, Arizona 85201 <i>SERVE: Mary Jones</i>
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TWO OR MORE DEFENDANTS

JOHN SMITH 1234 South Main Street Mesa, Arizona 85201	MARY JONES 1000 East First Street Mesa, Arizona 85201
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PARTNERSHIP

JOHN SMITH and JOE JONES, Partners DBA JJ's Café 1000 East First Street Mesa, Arizona 85201 <i>SERVE: John Smith</i>	JOHN SMITH and JOE JONES, Partners DBA JJ's Café 1000 East First Street Mesa, Arizona 85201 <i>SERVE: Joe Jones</i>
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WHEN THE NAME OF THE DEFENDANT IS UNKNOWN

JOHN DOE Schwarzenegger 1000 East First Street Mesa, Arizona 85201	Matilda DOE JANE DOE Taylor XYZ Corporation
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When the defendant's true name is discovered the pleadings must be amended to reflect the true name.

The following checklist has been prepared to assist you in processing your case. Check each action when it has been completed.

PLAINTIFF'S CHECKLIST

_____ Date Complaint Filed
_____ Date of Service

IF SERVICE IS BY MAIL:

_____ DATE TO TIME ANSWER HAS EXPIRED (20 days from date return receipt is signed by defendant. If there is not date, or if the date is illegible, the time to answer is 20 days from the date the return receipt is filed with the court).
_____ DATE RETURN RECEIPT FILED WITH THE COURT. (You may file your return receipt with the court in person or by first class mail).

IF SERVICE IS BY PROCESS SERVER:

_____ DATE TIME TO ANSWER HAS EXPIRED (20 days from date of service)
_____ DATE ANSWER IS FILED WITH THE COURT
_____ DATE TRIAL IS SET

IF DEFENDANT DEFAULTS IN ANSWERING THE COMPLAINT:

_____ DATE AFFIDAVIT AND APPLICATION FOR ENTRY OF DEFAULT FILED WITH THE COURT (The day following the date time to answer has expired, above).
_____ DATE ENTRY OF DEFAULT TAKES EFFECT. (Ten judicial days after a copy of the APPLICATION FOR ENTRY OF DEFAULT has been mailed to the defendant(s) claimed to be in default).
_____ DATE OF JUDGMENT

DEFENDANT'S CHECKLIST

_____ DATE COMPLAINT RECEIVED
_____ DATE ANSWER FILED (within 20 days of receipt of complaint)

IF COUNTERCLAIM IS FILED:

_____ DATE FILED
_____ DATE MAILED TO PLAINTIFF
_____ DATE REPLY TO COUNTERCLAIM IS FILED WITH THE COURT
_____ DATE TRIAL IS SET
_____ TIME TO REPLY TO COUNTERCLAIM EXPIRES (20 days from the date mailed)

IF PLAINTIFF DEFAULTS IN REPLYING TO THE COUNTERCLAIM:

_____ DATE AFFIDAVIT AND APPLICATION FOR ENTRY OF DEFAULT FILED WITH THE COURT (The day following the date time to answer has expired, above).
_____ DATE ENTRY OF DEFAULT TAKES EFFECT. (Ten judicial days after a copy of the APPLICATION FOR ENTRY OF DEFAULT has been mailed to the plaintiff(s) claimed to be in default).
_____ DATE OF JUDGMENT