

## Checklist for Affidavit and Summons

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- You must complete a form before you file it. These instructions will help you complete the forms.
- The judicial services representative cannot complete a form for you.
  - Attach a copy of any document referred to in the form.
  - Keep a copy of all documents for your records.
    - Attend all court hearings.
  - Some forms may not apply in your case.

### (1) Affidavit and Summons

- Print your name and contact information at the top of the first page. Check whether you are the plaintiff or the attorney for the plaintiff.
- Print the county and judicial district. Print the court address.
- The plaintiff's name. If you are suing in your personal capacity use your name. If you are representing a business with a trade name, including a corporation, partnership or solely owned business, use the business' trade name.
- The defendant's name. If you are suing a natural person, use the person's name. If you are suing a business with a trade name, including a corporation, partnership or solely owned business, use the business' trade name. Contact the Department of Commerce to obtain a corporation's name and the name of its registered agent.
- Case number. Leave blank. The court clerk assigns the case number.
- Paragraph (1): Enter the amounts claimed in the spaces provided. Include in the principal amount any interest accrued to the date of filing. Do not file an amended Affidavit to claim interest between the filing date and the judgment date. If the court grants judgment, the court will include prejudgment interest in the judgment if you qualify for it.
- Paragraph (2): Enter the date on which the events happened. Describe the facts.
- Paragraph (3): Check either or both boxes that apply.
- Paragraph (4): Check the box. You cannot sue in small claims a governmental entity or governmental employee for on-the-job conduct.
- Paragraph (5): Check the box. You cannot sue in small claims if the claim has been assigned to you.
- Omit any private or protected information. When filed, this document is a public record. Code of Judicial Administration [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list

of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).

- Signature. Sign the Affidavit under oath before a notary or a court clerk.
- Summons. Leave blank. The court clerk will schedule a trial date and complete the Summons, but you must arrange for serving it.

## **(2) To file the Affidavit and Summons**

- A small claims case must be filed in the court where the defendant resides or where the claim arose (where the events happened). Depending on the circumstances this may be the justice court or the district court.
- If the defendant resides or the claim arose within a municipality and if the municipality has a justice court, file the case in the municipal justice court. If the municipality has no justice court, file the case in the county justice court. If the defendant resides or the claim arose in the unincorporated county, file the case in the county justice court.
- If there is no municipal or county justice court, file the case in the district court. Cache County is the only county that does not have a county justice court, so filing in district court should occur only in cases from unincorporated Cache County and from municipalities in Cache County that do not have a justice court.

## **(3) To serve the Affidavit and Summons**

- You cannot serve the Affidavit and Summons yourself, but you must have documents served and the defendant by some other person 18 or older who is not a party to the case or a party's attorney. That person must deliver the papers to:
  - The defendant at any location;
  - To a person of suitable age and discretion who lives in the defendant's home at the defendant's home; or
  - An agent authorized to receive the papers at any location.

Deputy Sheriffs, constables and private investigators commonly serve papers, and they will make sure that it is done correctly, but they will charge a fee.

## **(4) Proof of Service of Affidavit and Summons**

- If a sheriff, constable or private process server serves the Affidavit and Summons on the defendant, that person will complete and file a Proof of Service.
- If some other person 18 or older who is not a party to the case or a party's attorney serves the Affidavit and Summons, that person must complete and file with the court a Proof of Service form.
- If the Defendant cannot be found for service, the plaintiff can ask the court to permit alternative service.