

SMALL CLAIMS CLINIC

Boulder County Court
THIRD TUESDAY – MONTHLY
Noon – 1:30pm

IS SMALL CLAIMS COURT RIGHT FOR YOU?

To answer that question, you
need to ask yourself

Have I talked to the person I'm thinking of suing?

- It's important before you even consider filing a small claims case to talk with the other party.
- They may be willing to come to an agreement that will satisfy you both without having to go to court.

If you have spoken with the other side and could not reach an agreement, the next question is . . .

Does my claim meet the criteria?

- Is your claim:
 - Worth less than \$7500?
 - One that can be filed in small claims court?
 - Typical claims: recover money or property, perform a contract, compliance with restrictive covenants
 - Prohibited claims: child custody, divorce, libel or slander, eviction, traffic violations, criminal matters
 - Do you have evidence to prove your claim?
 - Witnesses, documents, etc.
- If you answered YES to all of the above, then you need to consider again . . .

Any additional requirements?

- Some types of cases require additional work. It is your job to know which law you are suing under.
- Examples:
 - A negligence claim against a licensed professional requires a Certificate of Review (C.R.S. §13-20-602)
 - A construction defect claim must comply with CDARA, including compliance with the Notice of Claim process (CRS §13-20-801, *et. seq.*)
 - Tenants seeking 3x damages for failure to return a deposit must provide a 7-day notice to the landlord before filing a lawsuit. (C.R.S. §38-12-103)

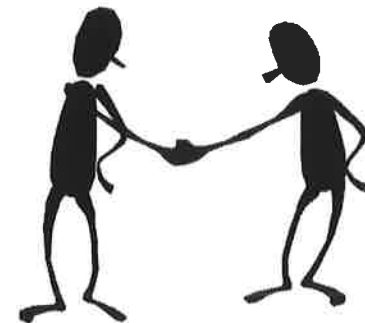
Do I really want to go to court?

- Does it make sense economically?
- Do you have the time and money?
- Are you ready for the emotional investment?
- If you are bringing case – do you think you will be able to collect?
- If you are named in a small claims case – do you think you will be able to pay if you lose?

If you are not sure about any of these

Settlement is always an option

- Settlement allows you to:
 - Structure your own result
 - Avoid having to go through the collections process if the judgment is in your favor
 - Avoid the risk that you will lose and get nothing
- Parties are often more motivated to settle than you might think.



Create A Demand Letter

- State the problem (goal to be accomplished)
- State the solution – steps necessary to cure default or dispute (and give deadlines)
- List consequences if matter is not settled.
 - DO NOT THREATEN THE OPPOSING PARTY.
- Make sure you keep the letter professional -- your goal is to solve the problem, not exacerbate it.

SAMPLE DEMAND LETTERS

GOOD

John Doe
John Doe Enterprises, Inc.
1111 America Way
Boulder, CO 80302

February 21, 2014

Ms. Jane Smith
Jane Smith, LLC
2222 USA Drive, Suite 90
Boulder, CO 80302

Dear Ms. Smith,

I am writing to request that you send me the \$5,000 your company owes for the widgets my company delivered on October 31, 2013.

On April 1, 2013, you promised me that your company, Jane Smith, LLC, would pay my company \$5,000 for 50 widgets. On May 2, 2013, you and I signed a written contract stating that Jane Smith, LLC would pay my company, John Doe Enterprises, \$5,000 for 50 widgets. On October 31, 2013, I delivered 50 widgets to Jane Smith, LLC's address.

Because I did not hear from you for over a month after the delivery, I called you on December 5, 2013 requesting payment. You did not answer, and I left a detailed message and requested that you return my call. You did not. I made several more calls throughout the month of December and received no response.

I must now request that you send me the balance in full, \$5,000, to the address above by March 1, 2014. If you are unable to pay in full by this date, I am willing to discuss a payment plan. If this matter is not resolved per this letter, I will seek appropriate legal action.

Yours truly,

John Doe

BAD

Jane,

I'm writing because you owe me \$5,000 for the widgets I delivered to you. We had an agreement and I held up my end of the bargain so I'm entitled to my money. You're acting unprofessional. If you don't pay me, I'll bring you to court and do whatever else I have to do to get you to pay. I'm very serious about this. You should be too.

- John Doe

When You Can Settle

- Even if you have already filed suit, you can **STILL SETTLE YOUR CASE.**
- You can settle at any time – all the way up until trial.
- Make sure if you **DO** settle after the case has been filed that you put it in writing, both parties sign, and submit that signed agreement to the Court.

The Small Claims Court Process

How does all of this work?

Resources

- Information for you to take today:
 - FAQ Brochure
 - Complaint Form
 - Case Management Order
- These forms and other very helpful info are available online at the Boulder County Courts' website:
http://www.courts.state.co.us/Courts/County/Index.cfm?County_ID=62

Plaintiffs: Filing a Complaint

- Where do I file?
 - In most cases, in the Colorado county where the other party lives or works.
- Complaint is form JDF 250 – “Notice, Claim, and Summons to Appear for Trial”
 - Hard copy in your packet of information.
 - Small Claims forms in word and fillable PDF format are available on the Court’s website at “Small Claims Information” hyperlink
 - Also available at the Clerk’s office

Information for Complaint

Small Claims Court _____ County, Colorado Court Address: _____	
PLAINTIFF(S): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	
v. DEFENDANT(1): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	
DEFENDANT(2): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	
	▲ COURT USE ONLY ▲
	Case Number: _____
	S
	Division _____ Courtroom _____
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 1)	

Information for Complaint Correct

Small Claims Court _____ County, Colorado Court Address:	
PLAINTIFF(S): John Doe Enterprises, Inc. and John Doe (Individual) Address: 1111 America Way City/State/Zip: Boulder, CO 80302 Phone: Home 111-111-1111 Work 222-222-2222 Cell 333-333-3333	
v. DEFENDANT(1): Jane Smith, LLC Address: 2222 USA Drive, Suite 90 City/State/Zip: Boulder, CO 80302 Phone: Home 444-444-4444 Work 555-555-5555 Cell 666-666-6666	▲ COURT USE ONLY ▲ Case Number: S
DEFENDANT(2): Jane Smith (Individual) Address: 3333 United States Blvd. City/State/Zip: Boulder, CO 80302 Phone: Home 777-777-7777 Work 888-888-8888 Cell _____	Division Courtroom
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 1)	

Information for Complaint Incorrect

Small Claims Court _____ County, Colorado Court Address:	
PLAINTIFF(S): John Doe (John Doe Enterprises)	
Address: 1111 America Way	
City/State/Zip: Boulder, CO 80302	
Phone: Home 111-111-1111 Work 222-222-2222 Cell 333-333-3333	
v.	
DEFENDANT(1): Jane Smith LLC - Robert Martin (registered agent)	
Address: 4444 Sample Drive	
City/State/Zip: Denver, CO 80223	
Phone: Home _____ Work _____ Cell _____	
DEFENDANT(2): Jane Smith (manager)	
Address: 3333 United States Blvd.	
City/State/Zip: Boulder, CO 80302	
Phone: Home 777-777-7777 Work 888-888-8888 Cell _____	
	▲ COURT USE ONLY ▲
	Case Number:
	S
	Division Courtroom
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 1)	

Information for Complaint

If Defendant(s) is/are other than a person, go on-line at www.sos.state.co.us to determine the registered agent for service of this notice. Please enter name and address of the agent. Name: _____

Address: _____

1. The Defendant(s) is/are in the military service: Yes No Unknown
2. The Defendant(s) reside(s), is/are regularly employed, has/have an office for the transaction of business, or is/are a student in this county, or the Defendant(s) own(s) the real property in this county that is the subject of this claim arising from a restrictive covenant or security deposit dispute. Yes No
3. I/We understand that it is my/our responsibility to have each Defendant served with the "Defendant's Copy" of this Notice by a person whose age is 18 years or older and who is not a party to this action 15 days prior to the trial and to provide the Court with written proof of service. Yes No
4. I am an attorney: Yes No

Notice and Summons to Appear for Trial

To the Defendant(s):

You are scheduled to have your trial in this case on _____ (date) at _____ (time) at the Court address stated in the above caption. Bring with you all books, papers and witnesses you need to establish your defense. **If you do not appear, judgment may be entered against you.** If you wish to defend the claim or present a counterclaim, you must provide a written response or written counterclaim on or before the scheduled trial date and pay a **nonrefundable** filing fee.

Dated: _____

Clerk of Court/Deputy Clerk

Information for Complaint

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)

The Defendant(s) owe(s) me \$ _____, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00.
Plaintiff(s) declare under penalty of perjury that the above statements are true and correct, and that I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County this calendar year.

Dated: _____

Plaintiff's Signature

Plaintiff's Signature

Information for Complaint Correct

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)

The Defendant(s) owe(s) me \$ 5,000.00, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

On April 1, 2012, Defendant Jane Smith promised me that her company, Jane Smith, LLC would pay me \$5000 for 50 widgets. On May 2, 2013, Jane Smith and I signed a written contract stating that Jane Smith, LLC would pay my company, John Doe Enterprises, \$5000 for 50 widgets. On October 31, 2013, I delivered 50 widgets to Jane Smith, LLC's address. To date, I have not been paid for these widgets by Jane Smith or Jane Smith, LLC despite repeated attempts to collect. I am seeking payment of the \$5,000 owed to me under the contract.

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00.
Plaintiff(s) declare under penalty of perjury that the above statements are true and correct, and that I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County this calendar year.

Dated: _____

Plaintiff's Signature

Plaintiff's Signature

Information for Complaint Incorrect

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)

The Defendant(s) owe(s) me \$5,000.00, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Defendant made a contract to pay me \$5000 for some widgets. I delivered the widgets, but Jane Smith and her company never paid me any money. I've called her, but she won't return my calls.

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00.
Plaintiff(s) declare under penalty of perjury that the above statements are true and correct, and that I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County this calendar year.

Dated: _____

Plaintiff's Signature

Plaintiff's Signature

Information for Complaint

- Note that there are several pages to the Complaint. Each asks for essentially the same info.
 - Duplicate what you filled out on the first page on each page.
 - Bottom right hand corner states who each copy is for
 - For example, Defendant's copy contains additional sections on a second page. This version gets served on the Defendant and the defendant must fill out the second page

How do I file?

- Take the completed Notice, Claim and Summons to Appear for Trial (the complaint) to the Clerk.
- Pay the filing fee
 - Up to \$500: \$31.00
 - \$500.01 to \$7500: \$55.00
- You may request a fee waiver if you qualify as indigent. (Form JDF 205 is available online). You may need to provide supporting documentation.
- When you file a claim, the clerk will set a trial date at least 30 and up to 90 days from the date of filing (and will enter the date on the Notice).

NOTE: ALWAYS BE POLITE

- The court staff is there to help you and they will do so if you are courteous
- Please note that the staff cannot provide legal advice.
- Please remember that the staff works closely with the judges.
- It is extremely important that you always be polite and respectful when you are interacting with court staff.

Serving the Defendant

- Once you have filed your Complaint with the Clerk and received a trial date, you must arrange to have the Defendant served with the Complaint and packet of information provided by the clerk's office.
- **YOU MAY NOT SERVE THE COMPLAINT AND SUMMONS YOURSELF.**
- Bad service means no service – even if the Defendant knows they are being sued.

Serving the Defendant

- Must be served **at least** 15 days before trial
- Person who serves must fill out the Affidavit of Service (last page of Notice).
 - Provides proof that the Defendant was given formal notice of claims, trial date, and where to appear.
- You **MUST** provide the court with affidavit of service. Best to do that **BEFORE** your trial date.
 - If Defendant doesn't show - default judgment.
- As long as served correctly, "You are being served with a complaint," **NOT** "These are for you," the person being served cannot refuse.

Who Can Serve

- NOT YOU
- Sheriff – reliable and persistent (fee)
 - Boulder County Sheriff: 303-441-3600
- Private process server (fee) [internet or yellow pages]
- Friend – must be over 18 and not related to either party
 - If the person to be served is likely to be hostile or aggressive, do NOT use this option. Use Sheriff.
 - Likewise, person serving must be polite.
- Certified Mail – cheap, but **not reliable or recommended**
 - Only Clerk of the Court can do this.
 - If certified mail cannot be completed, have to serve in person.

Substitution of Service

- Personal service is best, but you may also serve:
 - At usual place of abode with some member of the family over 18.
 - At usual place of business with supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent who is over 18.
 - To any partner in a partnership (if suing a partnership)
 - If suing a corporation, the registered officer or registered agent
- Need to state clearly on affidavit of service who was served and what was served.

Defendants: Responding to a Complaint

- If you have been served with a Complaint, you **MUST** file an **answer** and pay a filing fee.
- If you do not file an answer or pay the fee, the court may enter a default judgment against you.
- The answer can be filed and fee paid with the Clerk any time on or before the trial date.
- **NOTE:** if you wait until the trial to file, the time it takes to file will be deducted from your trial time.
- Answer form is on page 2 of the Complaint.

Information for Answer

Defendant's Response (If responding, pay the appropriate filing fee). I do not owe the Plaintiff(s) or am not responsible to the Plaintiff(s) because:

Information for Answer Correct

Defendant's Response (If responding, pay the appropriate filing fee). I do not owe the Plaintiff(s) or am not responsible to the Plaintiff(s) because:

On May 2, 2014, Jane Smith, LLC did enter into a contract with John Doe Enterprises in which we agreed to pay \$5000 for 50 widgets, on the condition that they be delivered by September 1, 2013. John Doe Enterprises did not deliver the product until October 31, 2013, there were only 25 widgets delivered, and they were defective. In addition, I did not make any promises in my personal capacity, but only as the agent to Jane Smith LLC, so I should not be named as an individual defendant in this case.

Information for Answer Incorrect

Defendant's Response (If responding, pay the appropriate filing fee). I do not owe the Plaintiff(s) or am not responsible to the Plaintiff(s) because:

John Doe delivered some widgets to me, but they weren't what I asked for and they were delivered too late.

Filing a Counterclaim

- When you file your answer, you may also file a Counterclaim. Counterclaims must:
 - Not exceed \$7500
 - Arise out of the same transaction or events as plaintiff's claim
 - Not require adding more parties
 - Not be the subject of an already pending action
- If a counterclaim is not raised, it is waived.
- If a counterclaim is in excess of small claims jurisdiction, it will be transferred to county court
- If a counterclaim is not filed at least 7 days before trial, the trial may be continued.

Information for Counterclaim

Defendant's Counterclaim (If submitting a counterclaim, pay the appropriate filing fee).

The Plaintiff(s) owe(s) me \$_____, which includes penalties, plus interest and costs allowed by law and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

- The amount of my/our counterclaim does not exceed the jurisdictional amount of the Small Claims Court of \$7,500.00.
- The amount of my/our counterclaim exceeds the jurisdictional amount of the Small Claims Court, but I/we wish to limit the amount that I/we wish to recover from the Plaintiff to \$7,500.00.
- The amount of my/our counterclaim exceeds the jurisdictional amount of the Small Claims Court, and I/we wish to have the case sent to County Court (only if I/we wish to limit the amount I/we can recover from the plaintiff to \$15,000.00) District Court (I /we do not wish to limit the amount I/we can recover from the Plaintiff(s)) and will pay the appropriate filing fee. I/we am/are filing a Notice of Removal and paying the appropriate filing fee to the Court at this time.

I am an attorney. Yes No

I declare under penalty of perjury that this information is true and correct and that I mailed a copy of the Response/Counterclaim to the Plaintiff(s) at the address(es) stated on this form on _____ (date).

Defendant's Address

Defendant's Signature

Date

Telephone #: Home

Work

Cell

Information for Counterclaim Correct

Defendant's Counterclaim (If submitting a counterclaim, pay the appropriate filing fee).

The Plaintiff(s) owe(s) me \$1,000.00, which includes penalties, plus interest and costs allowed by law and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Because of Plaintiff's failure to deliver the widgets by September 1, 2013, Jane Smith, LLC lost a \$1,000 contract with James Brown Inc. for products requiring the widgets. Jane Smith, LLC seeks damages of \$1,000 caused by John Doe Enterprises' failure to meet the terms of the contract.

- The amount of my/our counterclaim does not exceed the jurisdictional amount of the Small Claims Court of \$7,500.00.
- The amount of my/our counterclaim exceeds the jurisdictional amount of the Small Claims Court, but I/we wish to limit the amount that I/we wish to recover from the Plaintiff to \$7,500.00.
- The amount of my/our counterclaim exceeds the jurisdictional amount of the Small Claims Court, and I/we wish to have the case sent to County Court (only if I/we wish to limit the amount I/we can recover from the plaintiff to \$15,000.00) District Court (I /we do not wish to limit the amount I/we can recover from the Plaintiff(s)) and will pay the appropriate filing fee. I/we am/are filing a Notice of Removal and paying the appropriate filing fee to the Court at this time.

I am an attorney. Yes No

I declare under penalty of perjury that this information is true and correct and that I mailed a copy of the Response/Counterclaim to the Plaintiff(s) at the address(es) stated on this form on _____ (date).

Information for Counterclaim Incorrect

Defendant's Counterclaim (If submitting a counterclaim, pay the appropriate filing fee).

The Plaintiff(s) owe(s) me \$1,000.00, which includes penalties, plus interest and costs allowed by law and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

I lost \$1000 on another contract that I needed the widgets for because John Doe delivered the wrong widgets too late.

- The amount of my/our counterclaim does not exceed the jurisdictional amount of the Small Claims Court of \$7,500.00.
- The amount of my/our counterclaim exceeds the jurisdictional amount of the Small Claims Court, but I/we wish to limit the amount that I/we wish to recover from the Plaintiff to \$7,500.00.
- The amount of my/our counterclaim exceeds the jurisdictional amount of the Small Claims Court, and I/we wish to have the case sent to County Court (only if I/we wish to limit the amount I/we can recover from the plaintiff to \$15,000.00)
District Court (I /we do not wish to limit the amount I/we can recover from the Plaintiff(s)) and will pay the appropriate filing fee. I/we am/are filing a Notice of Removal and paying the appropriate filing fee to the Court at this time.

I am an attorney. Yes No

I declare under penalty of perjury that this information is true and correct and that I mailed a copy of the Response/Counterclaim to the Plaintiff(s) at the address(es) stated on this form on _____ (date).

Defendant's Fees

- Defendant's Answer without counterclaim:
 - Plaintiff's claim up to \$500: \$26
 - Plaintiff's claim \$500.01 to \$7500: \$41
- Defendant's Answer with counterclaim:
 - Plaintiff's claim up to \$500 and counterclaim up to \$500: \$31
 - Plaintiff's claim \$500.01 to \$7500 and counterclaim \$500.01 to \$7500: \$48
- As with the person filing the claim, you may ask for a fee waiver if you qualify as indigent. Forms (JDF 205 and 206) available at www.courts.state.co.us

Reminder re Settlement

- Remember that at any time in this process either party can initiate settlement discussions.
- If you reach an agreement with the other party, DOCUMENT IT IN WRITING, HAVE EACH SIDE SIGN, AND PRESENT THAT INFORMATION TO THE CLERK OF THE COURT so that the case can be dismissed.
- If you do not present the settlement agreement to the court:
 - PLAINTIFFS: If defendant shows up to trial and you do not, your case will be dismissed.
 - DEFENDANTS: If plaintiff shows up to trial and you do not, the court will enter a default judgment against you. If you cannot prove the case is settled, you may not be able to set aside the default judgment.

Preparation for Trial

- Read carefully all papers that you have received from the Court and the other side.
- Review resources available at the Court's website.
- You can also contact the Self-Represented Litigant Coordinator through the Clerk's office if you are confused or have specific questions about your case.

Preparation for Trial

- **The Plaintiff bears the burden of proof**
 - The defendant bears the burden for counterclaims
- You must prove your case by a preponderance of the evidence – more likely true than not.
- This standard looks to the ***quality*** of your evidence not the ***quantity***.

Preparation for Trial

- You must present evidence on the following to prove your case:
 - *Events*
 - *Damages*
 - *Liability*
- How to structure your argument
 - Focus on facts
 - Explain why those facts entitle you to relief
 - Explain why the relief you are requesting is appropriate

Evidence Preparation

- Exhibits
 - Have all exhibits prepared and in order
 - Mark your exhibits
 - Plaintiff's exhibits should be marked with a number
 - Defendant's should be marked with a letter
 - You must bring enough copies of all exhibits so that there is
 - One set for you
 - One set for each party
 - One set for the judge
 - All exhibits must be presented in hard copy or on CD, flash drive, etc.
 - Showing photos or playing videos or audio recordings on your phone will not work

Evidence Preparation

- Witnesses
 - BE SELECTIVE IN WHO YOU CHOOSE FOR WITNESSES. You have very limited time to present your evidence.
 - Have witnesses prepare their own independent written statement to assist recollection.
 - Testimony should focus on the five senses: I saw, I heard, I smelled, I felt, I tasted.
 - Character witnesses are not usually helpful.
 - A no-show witness will probably not get you a continuance – to be safe, take the witness there yourself.

Subpoenaing a Witness

- A subpoena is not required – you only have to issue one if the witness won't come willingly.
- But if a witness won't come willingly, do you really want to have them testify?
- Subpoena form available from Clerk's office or online.
- Subpoenas have to be issued through the Court.
- Need to serve the subpoena using the same process as serving the Complaint, including filing the affidavit of service with the Court.

Practice and Observe

- After you have prepared your argument, organized your exhibits and selected your witnesses:
 - PRACTICE your presentation on friends
 - OBSERVE a small claims trial with the judge you have been assigned to (Clerk's office can provide you with the necessary info)

Trial: Dos and Don'ts

- Everything you need to know for trial you learned in school:
 - BE ON TIME
 - NEVER BE RUDE
 - DON'T FORGET YOUR HOMEWORK
 - WAIT YOUR TURN – DON'T INTERRUPT
 - LISTEN
- REMEMBER – your job is to prove YOUR case. Attacking your opponent's case—or your opponent—will not accomplish this.
- http://www.youtube.com/watch?v=NZuml_cfOC8

Mediation

- On the day of the trial, the Court may request that you arrive early to engage in settlement discussions with a mediator.
 - Parties must make a good faith effort to resolve their cases during the settlement discussions.
 - A good faith effort means doing more than accusing each other of what you have or have not done.
 - All parties are to be reasonable, flexible, and courteous.
 - If you are able to come to an agreement, the clerk will then provide you with stipulation paperwork.
 - Once your agreement is written up, the judge will review it, and if reasonable will approve it.

Trial: How it Works

- If you are unable to reach an agreement during settlement discussions, you must do the following before your case can be called to trial:
 - Tell the opposing party what your testimony will be at trial
 - Show the opposing party all your exhibits and explain their relevance or purpose
 - Tell the opposing party who your witnesses are and what they will say during their testimony
- **Providing this information is critical.** You will have limited time at trial to present your evidence.
- Let the Clerk know once these three things are done.

Trial: How it Works

- In general, trials will proceed as follows in a case that does not contain a counterclaim
 - Plaintiff's presentation of the evidence
 - Testify
 - Admit exhibits
 - Call witnesses
 - Defendant's presentation of its defense
 - Plaintiff's rebuttal case

Trial: How it Works

- Each party will be provided a limited time to present their case. Trials are generally 45 minutes to an hour. BE ORGANIZED.
- Trial is audio recorded. Only one person can speak at a time.
- If you call a witness, you must be prepared to ask questions. They cannot simply tell their story.
- The court may permit cross-examination depending on time.
 - Cross-examination is an opportunity to clear up what the witness meant, find out whether the witness is biased, test the witness' memory of events, and test the accuracy of the witness' perceptions
 - Not an opportunity for you to comment on the witness' testimony or to harass the witness
- The rules of evidence will be relaxed.

Post-Trial

- If a **default judgment** has been entered against you (i.e., for not showing up to trial):
 - 30 days to file a motion to set aside the default judgment. You must show good cause (e.g., medical emergency, flood).
 - Collection efforts can continue in meantime
- If you want to **appeal** the judgment
 - 14 day deadline to file the appeal
 - Must show that there was an error of law or fact
 - There are additional costs associated with an appeal (e.g., transcript)
 - The appeal will be based solely on a review of the written record of the trial, it will not be a new trial

Post-Trial

- **Collections**

- If you win, the Court will not collect your judgment for you – you have to collect.
- There are instructions for how to collect a judgment on the Boulder County Court website.
- First step: Ask the other party to pay.
- If they do, file a Creditor's Satisfaction of Judgment form with the Court.
- If they don't, there is another judicial process that you have to follow in order to collect.
- <https://www.denvercountycourt.org/2013-small-claims-and-collection-clinics/>

KEY TAKEAWAYS

- Be sure your claims are within the small claims court's jurisdiction (<\$7500, no libel, slander, divorce, etc.)
- Consider the pros and cons of taking your case to court – time/money/chances of recovery/amount you stand to recover
- Engage in settlement discussions – you are more likely to arrive at a desirable outcome through settlement than through the court
- Carefully read all papers the court gives you
- Be prepared! Prepare a written statement; gather and organize your exhibits (with enough copies for you, each opposing party and the Judge!); practice your presentation; observe a small claims trial, preferably one in your Judge's courtroom.
- Be respectful, polite, and courteous. Dress appropriately. Listen to the Judge, listen to the opposing party. Remain calm and collected.