

**QUESTIONS
& ANSWERS**

YOUR GUIDE TO THE REGULAR CLAIMS COURT

**The Judiciary
State of Hawai'i**

By order of the Chief Justice: This office shall NOT give legal advice to private parties or draft legal documents for them.

Anyone requiring such services should consult an attorney licensed to practice in Hawaii.

WHERE IS THE REGULAR CLAIMS DIVISION OF THE DISTRICT COURT OF THE SECOND CIRCUIT LOCATED?

The Regular Claims Division is located at the Service Center on the First Floor of Hoapili Hale, 2145 Main Street, Room 141A, Wailuku. Molokai and Lanai handle their own.

WHAT ARE THE SERVICE COUNTER HOURS?

8:00 a.m. to 4:00 p.m.—Monday through Friday.

WHAT IS THE REGULAR CLAIMS DIVISION?

It is a division of the district court in which certain types of legal claims between parties are decided by a judge in a just, speedy, and inexpensive manner in a proceeding known as a “civil action”. The various types of claims are: assumpsit; damages; tort; summary possession; replevin; and other statutory proceedings as conferred by law upon the district courts.

WHAT IS THE JURISDICTION OF THE REGULAR CLAIMS DIVISION?

The Regular Claims Division has jurisdiction of all civil actions in which the debt, damages, or value of property claimed does not exceed **\$40,000** (4/17/14), except in civil actions involving summary possession or ejectment.

The Regular Claims Division hears and determines all actions without a jury, subject

to appeal according to law. Whenever a civil matter is triable of right before a jury and trial by jury is demanded in the manner and within the time provided by the rules of court, the case is transferred to the circuit court. The action may be commenced in the circuit court if the amount in controversy exceeds \$5,000.

The court also has jurisdiction in all statutory proceedings conferred by law upon district courts.

The district court does NOT have jurisdiction over real actions, actions in which the title to real estate comes in question, actions for libel, slander, defamation of character, malicious prosecution, false imprisonment, breach of promise of marriage, or seduction, and has no power to appoint referees in any cause.

WHO CAN I SEE FOR ASSISTANCE ON PREPARING A COMPLAINT AND SUMMONS?

Consult with the Service Center staff if you have any questions about filing procedures. The Service Center will furnish the necessary forms to initiate a civil action and provide information as to its preparation. The clerks, however, are not permitted by law to provide legal advice relating to the preparation of your document.

WHERE MUST THE CLAIM BE FILED?

- A. The State of Hawaii is divided into four judicial circuits as follows:
 - 1) First judicial circuit (Oahu, District of Kalawao in Molokai, and all islands not included in other circuits);
 - 2) Second judicial circuit (Maui, Molokai, Lanai, Kahoolawe, and Molokini);
 - 3) Third judicial circuit (Hawaii);
 - 4) Fifth judicial circuit (Kauai, Niihau, and Kaula).
- B. Each judicial circuit has been divided geographically into several divisions.
- C. There is a circuit court and a district court in each judicial circuit.
 - 1) The Second Judicial Circuit is divided into as many divisions as there are geographical divisions in the judicial circuit to which it belongs.

For example, **The Second Judicial Circuit** is divided as follows:

DIVISIONS	LOCATION OF COURTHOUSE
Wailuku	Wailuku
Lahaina	Lahaina
Hana	Hana
Molokai	Kaunakakai
Lanai	Lanai City

D. The court rules provide that a claim must be filed:

- 1) In the division where the defendant resides;
- 2) If the defendant does not reside in the judicial circuit, then in the division where the claim for relief arose, or if the claim for relief arose outside of the judicial circuit, then in any division where the defendant can be found;
- 3) If there are defendants residing in different divisions, then in the division where the claim for relief arose, or if the claim for relief arose outside of the judicial circuit, then in any division where any defendant can be found, and
- 4) In an action for summary possession, in the division in which the premises are situated, without regard to the defendant's place of residence.

WHERE MUST I GO TO HAVE MY CIVIL DOCUMENTS PROCESSED?

All civil documents are filed and processed at the Documents Receiving Section on the First Floor, Hoapili Hale, 2145 Main Street, Room 106, Wailuku, Hawaii 96793.

WHAT DOES IT COST TO FILE A REGULAR CLAIMS COMPLAINT AND SUMMONS?

The filing fee is \$155.00. (1/1/2014)

HOW IS THE DEFENDANT NOTIFIED?

Service of all process may be made without court permission anywhere in the State of Hawai'i by a Civil process agent, or by any person who is not a party and is not less than 18 years. Any other means of service or any service outside the State of Hawai'i requires court permission. Alternative means of service is also set forth in the rules of court. You should consult with an attorney licensed to practice in the State of Hawai'i if you have any questions regarding the best alternative in your case.

HOW DO I KNOW WHEN MY CASE IS SET ON THE COURT CALENDAR?

The person serving your document is immediately required to file the **Return of Service** with Court and notify you that service has been made. Your court case will appear on the court calendar on the specified day in compliance with the court summons.

HOW CAN A PERSON PREPARE A COUNTERCLAIM?

Upon request, the clerk of the court will furnish the necessary forms to file a counterclaim. You should consult the rules of court, or legal counsel, to determine whether you must request permission from the court to file your counterclaim.

HOW IS THE PLAINTIFF NOTIFIED OF A COUNTERCLAIM?

The defendant is charged with the responsibility of furnishing the plaintiff with a copy of the counterclaim. Service can be effected via Civil Process Agent, hand-delivery by the defendant or mailing a copy to the plaintiff. A certificate of service must be filed with the court.

MAY A PARTY BE REPRESENTED BY AN ATTORNEY?

YES. Either party may be represented by an attorney.

MAY THE PLAINTIFF OR THE DEFENDANT HAVE A JURY TRIAL?

YES. If the amount in controversy exceeds \$5,000.00 either party may have the case transferred directly to the circuit court for jury trial. **EXCEPTION:** Notwithstanding a proper jury demand, issues relating to summary possession remain exclusively within the jurisdiction of the district court.

WHAT HAPPENS IF THE DEFENDANT IS NOT PRESENT AT THE TIME AND PLACE SET FOR ANSWER/TRIAL?

If the defendant has been properly served with the summons, the plaintiff may win judgment by default, but the judge may require the plaintiff to present evidence to prove his/her claim.

WHAT HAPPENS IF THE PLAINTIFF IS NOT PRESENT AT THE TIME AND PLACE SET FOR ANSWER/TRIAL?

The plaintiff is not required to be present for the answer. If the plaintiff does not appear for trial the case may be Dismissed. If the case is dismissed with prejudice, the plaintiff cannot file a new suit on the same claim. If the case is dismissed without prejudice, a new suit on the claim may be filed.

WHAT SHOULD THE PLAINTIFF AND THE DEFENDANT DO IN PREPARATION FOR HEARING OF THE CASE?

At the hearing, you will be required to present the facts of your side of the case in your own words.

If you have any witnesses who can back up your claim, bring them to court.

A witness may be compelled to attend under an order to appear, which is known as a subpoena. The party for the order must pay witness fees and mileage.

Bring to court any documents or papers that relate to the case to back up your story. Documents or any papers you might need include:

1. Any written contracts (for example, rental agreements, promissory notes, receipts, agreements to repair property, etc.);
2. Any letters that might have passed between you and the other party.
3. Any bills, paid or unpaid, and cancelled checks having to do with the case;
4. Any repair bills or written estimates of repair prepared by qualified persons;
5. Photographs of any damaged property.

Witnesses are very important in any case where there is damage to property. If your case involves a question of the quality of workmanship or the reasonable value of materials used and services performed for repairing damaged property, an experienced and impartial person in the same trade will make a good witness. The person who made an estimate of the cost of repairs and the person who did the repair work on damaged property should be brought to court as witnesses for the party who wants to recover costs incurred for such repairs.

WHAT HAPPENS AFTER THE COURT DECIDES THE CASE?

The prevailing party must prepare a written judgment and submit it to the court for approval. The clerk of the court will furnish you with the necessary forms.

MAY THE LOSING PARTY ASK THE COURT TO RECONSIDER THE JUDGMENT?

The losing party may ask the court to alter or set aside the judgment within 10 days after filing of the judgment.

For example, the losing party may wish to correct a mistake made in computing the amount of the judgment or present new evidence discovered after the trial.

MAY THE LOSING PARTY APPEAL?

YES.

ONCE THE JUDGMENT IS FINAL, WHAT STEPS MAY BE TAKEN TO COLLECT IT?

There are several remedies governed by State and Federal laws and regulations. The clerk may provide information on alternatives available for collection, however, the court cannot act as the collection agency for the judgment creditor. If you have any questions as to the best means to enforce your judgment against the defendant, you should consult a licensed attorney for appropriate advice.

WHAT MUST I DO IF I RECEIVE PAYMENT-IN-FULL FROM THE DEFENDANT?

If payment is received prior to a judgment being filed, you must file a **Notice of Dismissal with Prejudice**. If payment is received after a judgment, you must file a **Satisfaction of Judgment**. The clerk of the court will furnish you with the necessary forms.

IF I HAVE ANY OTHER QUESTIONS WHO CAN HELP ME?

For further information, you may call the Service Center at 244-2706.

NOTE: THE CLERK OF THE COURT WILL ASSIST YOU ON ANY PROCEDURAL MATTERS.

The clerk of the court is **not** empowered to assist you on matters of a “legal” nature. Please consult with legal counsel on matters pertaining to law.

NOTES



2D-V-045 (05/14)