

QUESTIONS
& ANSWERS

YOUR GUIDE TO THE REGULAR CLAIMS COURT

The Judiciary
State of Hawai'i
District Court
of the Third
Circuit

*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 Hawai‘i.



*In accordance with the **Americans with Disabilities Act**, as amended, and other applicable state and federal laws, if you require a reasonable accommodation for a disability when working with a court program, service or activity, please contact the ADA Coordinator at (808) 961-7424, FAX (808) 961-7411, or email adarequest@courts.hawaii.gov at least ten (10) working days in advance of your hearing or appointment date.*

WHAT IS REGULAR CLAIMS DIVISION?

It is a division of the District Court in which certain types of claims between two or more parties are decided, by a judge not a jury, in a proceeding known as a “civil action”. Various types of claims include: assumpsit, tort, summary possession, and replevin, as well as other proceedings designated by law.

Legal requirements and procedures governing the Regular Claims Division are set forth in the Hawai‘i Revised Statutes, the Rules of the District Court and the District Court Rules of Civil Procedure.

WHO ARE THE PARTIES?

A person who files a claim is called the plaintiff and a person against whom a claim is filed is called the defendant.

CAN A PARTY BE REPRESENTED BY AN ATTORNEY?

YES. An attorney may represent either party. However, all corporations must be represented by an attorney.

WHAT TYPES OF CASES CAN BE FILED IN THE REGULAR CLAIMS DIVISION?

The Regular Claims Division handles all civil actions in which the debt, damages, or value of property claimed does not exceed **\$40,000**, except cases involving summary possession or ejectment, for which no monetary limit applies. The District Court may also handle other civil actions as allowed by law.

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 if the amount in controversy exceeds \$5,000 and does not involve summary possession.

The District Court does NOT handle 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.

IS THERE A REGULAR CLAIMS DIVISION ON EACH ISLAND? YES.

O‘AHU

1111 Alakea Street
3rd Floor
Honolulu, HI 96813
Ph. (808) 538-5151

MAUI

2145 Main Street
Hoapili Hale
Wailuku, HI 96793
Ph. (808) 244-2706

HAWAI‘I

Hale Kaulike
777 Kilauea Avenue
Hilo, HI 96720
Ph. (808) 961-7515

KAUA‘I

3970 Kā‘ana Street
Līhu‘e, HI 96766
Ph. (808) 482-2303

Keākealani Building, Room 219
79-1020 Haukapila Street
Kealakekua, HI 96750
Ph. (808) 322-8700

MOLOKA‘I

P.O. Box 284
Kaunakakai, HI 96748
Ph. (808) 553-5451

Waimea Civic Center
67-5187 Kamamalu Street
Kamuela, HI 96743
Ph. (808) 443-2030

LĀNA‘I

P.O. Box D
Lāna‘i City, HI 96763
Ph. (808) 565-6447

ARE THERE ADVANTAGES TO FILING A CASE IN THE REGULAR CLAIMS DIVISION?

There is a right to appeal from a final judgment in the Regular Claims Division, as opposed to no right of appeal from the judge’s decision in the Small Claims Division.

ARE THERE DISADVANTAGES TO FILING A CASE IN THE REGULAR CLAIMS DIVISION?

The procedure is more formal and the resolution of the case may require additional time. There may also be increased costs in pursuing a claim.

WHAT STEPS MUST I TAKE TO FILE A COMPLAINT IN THE REGULAR CLAIMS DIVISION?

You must file a Complaint with the clerk of the court. The Regular Claims Division will furnish the necessary forms to initiate a civil action. You may consult with a court clerk if you have questions about the filing procedures.

WHAT DOES IT COST TO FILE A COMPLAINT?

The filing fee is \$155.00, which can be waived by a judge based upon financial hardship.

WHERE MUST THE COMPLAINT BE FILED?

- A. The State of Hawai‘i is divided into four judicial circuits as follows:
- 1) First judicial circuit (O‘ahu);
 - 2) Second judicial circuit (Maui, Moloka‘i, Lāna‘i, Kaho‘olawe, and Molokini);
 - 3) Third judicial circuit (Hawai‘i).
 - 4) Fifth judicial circuit (Kaua‘i, Ni‘ihau, and Ka‘ula).
- 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 circuit court is located in one place except for the Island of Hawai‘i (Kona and Hilo).

- 2) The district court is divided into geographical divisions. **The District Court of the Third Circuit** is divided as follows:

LOCATION OF

DIVISION (Major Towns)

North & South Hilo

(Hilo, Pāpa‘ikou, Honomū, Hakalau, Honohina, Pāpa‘aloha, Laupāhoehoe, ‘Oōkala)

Puna

(Kea‘au, Kurtistown, Mt. View, Volcano, Pahoā)

South Kohala

(Kawaihae, Puakō, Waikōloa, Kamuela, Waimea)

Hāmākua

(Pa‘auilo, Pā‘auhau, Honoka‘a, Kukuihaele)

North Kohala

(Māhukona, Kapa‘au, Hala‘ula, Hāwī)

North and South Kona

(Kailua-Kona, Hōlualoa, Keauhou, Honalo, Capt. Cook, Hōnaunau, Ho‘okena, Miloli‘i, Kealakekua)

Ka‘ū

(Wai‘ōhinu, Nā‘ālehu, Pahala, Hawaiian Ocean View Estates)

COURTHOUSE

Hale Kaulike

777 Kilauea Avenue
Hilo, HI 96720

Hale Kaulike

777 Kilauea Avenue
Hilo, HI 96720

Waimea Civic Center

67-5187 Kamāmalu Street
Kamuela, HI 96743

Waimea Civic Center

67-5187 Kamāmalu Street
Kamuela, HI 96743

Waimea Civic Center

67-5187 Kamāmalu Street
Kamuela, HI 96743

Kealakekua

Keakealani Building
(Old Kona Hospital)
79-1020 Haukapila Street
Kealakekua, HI 96750

Kealakekua

Keakealani Building
(Old Kona Hospital)
79-1020 Haukapila Street
Kealakekua, HI 96750

D. The 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. 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. If the claim for relief arose outside of the judicial circuit, then in any division where any defendant can be found.

- 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.

In the Third Circuit, civil documents are filed at the following locations:

DIVISION

*North and South Hilo,
Puna*

*North and South Kohala,
Hāmākua*

*North and South Kona,
Ka'ū*

PLACE TO FILE

*Hale Kaulike
777 Kilauea Avenue
Hilo, HI 96720*

*Waimea Civic Center
67-5187 Kamamalu Street
Kamuela, HI 96743*

*Keakealani Bldg., Rm 219
79-1020 Haukapila Street
Kealahou, HI 96750*

WHAT ARE THE OFFICE HOURS FOR FILING DOCUMENTS?

Office hours are Monday through Friday, 7:45 a.m. to 4:30 p.m., for the filing and processing of documents. The civil division payment window closes at **4:00 p.m.**, and will not accept money for the payment of costs and/or filing fees after that time, but will receive documents and process the next business day.

HOW IS THE DEFENDANT NOTIFIED OF THE COMPLAINT?

Service of the complaint shall be made by a civil deputy or by the chief of police or his duly authorized subordinate or by some other person authorized under the laws of the State of Hawai'i for that purpose, or by any person who is not a party and is over the age of 18. You should consult with an attorney licensed to practice in the State of Hawai'i if you have questions regarding the best method to serve the defendant.

WHAT DOES IT COST TO NOTIFY THE DEFENDANT OF THE COMPLAINT AND WHO PAYS THE COST?

- A. If the papers are given to a civil deputy for service, the plaintiff must pay the deputy a fee for serving the papers plus a mileage fee which will vary according to the distance the deputy must travel.
- B. If the plaintiff wins the case, the court may add the amount of such costs to the judgment entered against the defendant.

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

The civil deputy/process server is charged with the responsibility of notifying you immediately after service of your court document and your case will appear on the court calendar on the specified day in compliance with the court summons.

MUST THE DEFENDANT ANSWER THE COMPLAINT IN WRITING?

NO. A defendant may verbally admit or deny the plaintiff's claim at the answer date.

CAN A DEFENDANT FILE A CLAIM AGAINST THE PLAINTIFF?

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

There is a filing fee of \$65.00 for filing a counterclaim. The counterclaim form is available at the District Court Office or at www.courts.state.hi.us.

HOW IS THE PLAINTIFF NOTIFIED OF A COUNTERCLAIM?

The defendant is responsible for serving the plaintiff with a copy of the counterclaim at least 48 hours prior to the time set for trial. The counterclaim can be served by a civil deputy, by mail, or hand-delivered.

CAN THE PLAINTIFF OR THE DEFENDANT REQUEST A JURY TRIAL?

YES. The defendant may file a demand for jury trial if the amount claimed by the plaintiff is more than \$5,000. The plaintiff may file a demand for jury trial if the amount in defendant's counterclaim is more than \$5,000. If a timely request is filed by either party, then the case is transferred to the circuit court for jury trial. EXCEPTION: Notwithstanding a proper jury demand, issues relating to summary possession remains with the district court.

There is a filing fee of \$200 for a jury trial demand; and a Transfer fee of \$200 to be payable to the clerk of the court.

WHEN WILL THE CASE BE HEARD?

The trial date is scheduled either at the pre-trial conference or at the answer date, subject to continuances that may be granted by the court. Your case will appear on the court calendar on the specified day.

WHAT CAN A PARTY DO IF HE/SHE IS UNABLE TO ATTEND THE TRIAL DATE?

Both parties will need to agree with the continuance of a case. For further information, please contact the clerk of court in your area (Hilo/Puna, Ph. 961-7515, N & S Kohala/Hāmākua, Ph. 443-2030, or Kona/Ka'ū, Ph. 322-8700).

WHAT HAPPENS IF THE PLAINTIFF IS NOT PRESENT IN COURT AT THE TIME AND PLACE SET FOR THE ANSWER DATE OR FOR TRIAL?

At the answer date, if the plaintiff is not represented by an attorney and does not appear, the case may be dismissed. At trial, if the plaintiff does not appear, 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 HAPPENS IF THE DEFENDANT IS NOT PRESENT IN COURT AT THE TIME AND PLACE SET FOR THE ANSWER DATE OR FOR TRIAL?

At the answer date, if the defendant has been properly served with the Complaint and notice of the answer date, the plaintiff may win judgment by default. Also at trial, if the defendant does not appear, the plaintiff may win judgment by default.

WHAT IS MEDIATION?

Before trial begins, the judge may require the parties to mediate their case. The mediator from the Mediation Center, will attempt to help the parties settle their dispute. Both parties maybe asked to begin mediation on the answer date.

If an agreement is reached through mediation, the claim is usually dismissed and the plaintiff avoids having to return to court and incurring more costs in trying to collect on a judgment. If the parties are unable to reach an agreement through mediation, the parties will return to court for a trial.

WHAT SHOULD THE PLAINTIFF AND THE DEFENDANT DO IN PREPARATION FOR TRIAL?

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

If you have any witnesses who support your position, you must bring them to court. Witnesses may be important in any case where there is damage to property. For example, if your case involves workmanship or the reasonable value of materials used and services performed for repairing damaged property, an experienced and impartial person in the same trade may be 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 may be brought to court as a witness for the party who wants to recover costs incurred for such repairs.

If a witness will not come to court voluntarily or cannot obtain permission to leave work to come to court, the court can be asked to issue an order to compel the witness to appear at trial. To compel a witness to attend under an order to appear, is known as a subpoena.

The party asking for the subpoena must pay witness fees and mileage. The subpoena must be submitted for approval before the trial date. If the party wins the case, the judge may include the amount paid as witness fees and mileage as part of the judgment entered against the losing party.

Bring to court any documents or papers that relate to the case. Prior to the trial date, you must exchange copies of your exhibits with the other party. At trial, provide the court with a set of your exhibits. Documents or any papers that may be helpful, include but are not limited to the following:

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.

WHAT HAPPENS AFTER THE COURT DECIDES THE CASE?

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

CAN THE LOSING PARTY APPEAL?

YES, by following the appropriate laws and rules pertaining to appeals. There are strict deadlines for filing an appeal. There are also costs associated with filing an appeal.

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

The losing party may ask the court to modify or to reconsider the judgment, pursuant to Rule 59 or Rule 60 of the District Court Rules of Civil Procedure. Please consult the Rules as to the filing deadlines.

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

There are several ways to collect the judgment, which are governed by State and Federal laws and regulations. The court cannot act as the collection agency for the judgment creditor or give you legal advice as to what steps to take. 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.

Court forms for collection proceedings are available at the District Court offices or at www.courts.state.hi.us.

IS THE JUDGMENT DEBTOR (the losing party) REQUIRED TO PAY THE COST OF COLLECTING THE JUDGMENT?

YES, the debtor must reimburse the judgment creditor for certain costs. Check with the court clerk.

WHAT MUST A PLAINTIFF DO IF HE/SHE RECEIVES PAYMENT IN FULL FROM THE DEFENDANT?

If payment is received prior to a judgment being filed, you must file a "Notice of Dismissal". If payment is received after the judgment has been filed and entered, you must file a **SATISFACTION OF JUDGMENT**. The court clerk will furnish you with the necessary forms.

WHAT SHOULD I WEAR TO COURT?

Please dress appropriately. No shorts, slippers, or tank tops should be worn in court.

Head gear should be removed unless it is worn for religious purposes and sunglasses are not to be worn in court unless it is for medical reasons.

IF I HAVE OTHER QUESTIONS, WHO CAN HELP ME?

For further information, ask or call any of the clerks of the District Court of the Third Circuit at Hilo 961-7515, Kona 322-8700, Kamuela 443-2030 or visit the Judiciary website at www.courts.state.hi.us.

NOTE: *The court clerk will only assist you on procedural matters.* The court clerk is NOT permitted to give you legal advice. Please consult with an attorney on matters pertaining to law.

NOTES



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