

DISTRICT COURT RULES OF SMALL CLAIMS PROCEDURE

1.00 General Rules

1.01 Scope of Rules. These rules govern the procedure for small claims actions in the District Court. They shall be known as the District Court Rules of Small Claims Procedure and may be cited as D.C.R.S.C.P.

1.02 Mandatory Electronic Filing. In accordance with Art. X of the Rhode Island Supreme Court Rules Governing Electronic Filing, electronic filing is mandatory for small claims actions in the District Court using the Rhode Island Judiciary’s (Judiciary) Electronic Filing System. All parties are required to use the Judiciary’s Electronic Filing System except for incarcerated individuals or where a waiver is granted in accordance with Art. X, Rule 3(c). Self-represented litigants may electronically file documents in accordance with Art. X, Rule 3(b) but are not required to do so. The D.C.R.S.C.P. must be read in conjunction with Art. X, the Rhode Island Rules of Practice Governing Public Access to Electronic Case Information, and the Rhode Island Judiciary User Guide for Electronic Filing.

1.03 Definitions. For further definitions, see Art. X, Rule 1(c) of the Rhode Island Supreme Court Rules Governing Electronic Filing.

- (A) Case Initiating Document(s). The first document(s) filed in a case.

- (B) Certificate of Service. Where the D.C.R.S.C.P. requires service of a document to be certified by an attorney of record or a self-represented litigant, the following certification may be used:

CERTIFICATE OF SERVICE

I hereby certify that, on the _____ day of _____, _____:

I filed and served this document through the electronic filing system on the following parties: _____.
The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary’s Electronic Filing System.

I served this document through the electronic filing system on the following parties: _____.
The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary’s Electronic Filing System.

I mailed or hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is _____ at the following address _____.

/s/ NAME _____

- (C) Civil Case Cover Sheet. The Plaintiff/Petitioner shall file a Civil Case Cover Sheet for each named party with any Case Initiating Document(s). The document shall capture identifying information regarding the parties in a case to ensure proper identification within the Judiciary's case management system (CMS), which is party driven. Once the information is entered into the CMS by the court, the document shall be sealed by the court and it shall not be available to the parties or the public due to the identifying information contained therein. The most current version of the Civil Case Cover Sheet is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.
- (D) Electronic Filing System (EFS). An approved Judiciary-wide system for the filing and service of pleadings, motions and other documents or information via electronic means such as the Internet, a court-authorized remote service provider or through other remote means to and from the Judiciary's CMS.
- (E) Filing. Where the D.C.R.S.C.P. require a document to be filed, filing shall mean electronic filing using the EFS unless stated otherwise.
- (F) Notice. Where the D.C.R.S.C.P. require notice to be given, notice shall mean electronic notice using the EFS unless stated otherwise.
- (G) Registered User. An individual or entity with an assigned username and password authorized by the Judiciary to access and utilize the EFS.
- (H) Public Access Portal. The point of entry for electronic access to case information from the Judiciary's database whether at the courthouse or remotely. The database is an electronic collection of court records displayed as a register of actions or docket sheet. The register of actions or docket sheet lists parties, case events, document filings, or other activities in a case set forth in chronological order.
- (I) Service. Where the D.C.R.S.C.P. require a document or information to be served, sent, delivered, or forwarded, the following shall be applicable:
- (1) Subpoenas, complaints, petitions, or other documents that must be hand-delivered or served in person with a summons shall not be served electronically; and
 - (2) All other service or notice within a case shall be electronic using the EFS unless stated otherwise.
- (J) Signature. Where the D.C.R.S.C.P. require an electronic signature on any document, the signature shall be reflected as /s/ NAME unless stated otherwise.

1.04 Language Assistance Notice. In an effort to provide language assistance to limited English proficient persons, service of Case Initiating Document(s) shall include the Language Assistance Notice which informs the recipient of the right to a foreign language interpreter at no cost and contains instructions about how to obtain language assistance services. The most

current version of the Language Assistance Notice is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

1.05 Electronic Filing of Documents. When using the EFS:

- (A) All Case Initiating Document(s), including any required documents, attachments, or exhibits, shall be submitted individually as separate files within the same initial submission or filing;
- (B) All subsequent pleadings, motions, and other papers, shall be submitted individually with related documents submitted as separate files within the same submission or filing (for example, a motion and memorandum or other supporting attachments or exhibits filed in support of a motion); and
- (C) Categories of items such as bills, receipts, invoices, photographs, etc. may be submitted in one attachment.

For specific requirements, see the Family Court's Electronic Filing System Guidelines.

1.06 Clerk Review; Acceptance/Rejection Procedure. Following submission, the District Court shall timely review the electronically filed document(s) and shall notify the filing party as to whether the filing is accepted or rejected. Upon acceptance, the submitted document(s) shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Art. X, Rule 5(b) of the Rhode Island Supreme Court Rules Governing Electronic Filing. In accordance with Art. X, Rule 5(c), grounds for the rejection of a document submitted to the EFS in a small claims action are limited in scope as follows:

- (A) Failure to include a notarized signature on the Proof of Claim and Military Service Affidavit and Waiver of Right of Appeal portion of the Small Claims Notice of Suit;
- (B) For plaintiff corporations, a Small Claims Notice of Suit filed without an affidavit of designation for corporations with assets under \$1,000,000 (see Rule 3.03);
- (C) A small claims action filed without the required documents as set forth in the District Court's Electronic Filing System Guidelines; and
- (D) Pleadings not filed in accordance with Rule 1.05.

If rejected, the filing will not be docketed and notice will be sent to the Registered User indicating why the document(s) was returned. The rejection notice shall identify the basis for the rejection in accordance with the rules of the court. A rejected filing shall be promptly corrected and resubmitted and shall be deemed to have been submitted and filed on the initial filing date for purposes of any statutory or rule-based deadline.

12.00 Filing Fee-Commencement of Action, Service of Process, and Scheduling of Cases

2.01 Filing Fee. The filing fee for a small claims action shall be ~~\$5.00~~ established by statute together with any applicable technology surcharges ~~an amount equal to the prevailing postal rate for mailing notices, if the clerk mails the Small Claims Notice of Suit. If the plaintiff's attorney mails the Small Claims Notice of Suit pursuant to Rule 5.00, the fee for filing shall be \$5.00.~~

2.02 Commencement of Action. A small claims action shall be commenced by the filing in the District Court of a Small Claims Notice of Suit, Civil Case Cover Sheet, and any other required document in a form prescribed by the District Court. The most current version of the forms are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

2.03 Process, Attachment, Trustee Process, Arrest. The summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents shall be served together. The most current version of the forms are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms. The cost assessed to a defendant shall not exceed the cost established by G.L. § 9-29-9. For purposes of service of process upon corporations and on persons outside of the State of Rhode Island, subsections (D)(3) and (E), respectively, shall apply.

- (A) Summons: Form. The summons shall bear the Signature of the clerk, be under the seal or watermark of the court (which shall be generated by the CMS), identify the court and the parties, be directed to the defendants, and state the name and address of the plaintiff's attorney or state the name and address of the self-represented litigant. The summons shall also state the time within which the defendant must file an answer, and shall notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. Process issued out of any division of the court may be made returnable in any other division. The court may allow a summons to be amended.
- (B) Summons: Issuance. The summons, as provided in subdivision (A) of this rule, shall be issued in the following manner:
- (1) For attorneys and self-represented litigants who are Registered Users, a summons shall be generated by the court and attached to the case following the acceptance of the complaint, Civil Case Cover Sheet, and all other required documents by the court. Registered Users can retrieve the summons through the Public Access Portal;
 - (2) For incarcerated individuals, a summons shall be generated electronically by the court and mailed to the individual upon the acceptance of the complaint, Civil Case Cover Sheet, and all other required documents by the court; and

(3) For attorneys who are granted a waiver pursuant to Art. X, Rule 3(c) of the Rhode Island Supreme Court Rules Governing Electronic Filing and self-represented litigants who do not elect to electronically file pursuant to Art. X, Rule 3(b):

- (i) A summons may be generated electronically by the court and handed to the attorney or self-represented litigant at the time of filing the complaint, Civil Case Cover Sheet, and all other required documents at the clerk's office;
- (ii) If the complaint, Civil Case Cover Sheet, and all other required documents are mailed to the court, a summons may be generated electronically by the court and mailed to the attorney or self-represented litigant if a self-addressed envelope is included; or
- (iii) If the complaint, Civil Case Cover Sheet, and all other required documents are mailed to the court, a summons may be generated electronically by the court and the attorney or self-represented litigant may obtain the summons at the clerk's office.

The plaintiff's attorney or a self-represented litigant shall deliver to the person who is to make service the original summons upon which to make his or her return of service and a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents for service upon the defendant. Additional summons may be issued against any defendant.

(C) *By Whom Served.* Service of all process shall be made by a duly authorized officer in accordance with Title 9, Chapter 5 (Writs, Summons, and Process) of the Rhode Island General Laws, by any other person authorized by law, or by some person specially appointed by the court for that purpose, except that a subpoena may be served as provided in D.C.R. 45. Special appointments to serve process shall be made freely when substantial savings in travel fees will result.

(D) *Summons: Personal Service.* The summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

- (1) Upon an individual other than an incompetent person by delivering a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to an agent authorized by appointment or by law to receive service of process, provided that if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given.

- (2) Upon a person for whom a guardian or conservator has been appointed by serving copies of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents upon such guardian or conservator and upon the incompetent person in the manner provided in paragraph (1) of this subdivision.
- (3) Upon a private corporation, domestic or foreign, by delivering a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to an officer, a managing or general agent, or by leaving a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents at the office of the corporation with a person employed therein, or by delivering a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to an agent authorized by appointment or by law to receive service of process provided that if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given.
- (4) Upon the state by delivering a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to the attorney general or an assistant attorney general.
- (5) Upon a public corporation, body, or authority by delivering a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to any officer, director or manager thereof.
- (E) *Service Outside State: Personal Jurisdiction.* When an individual or a foreign corporation is subject to the jurisdiction of the courts of the state, service of process may be made outside the state as follows:
- (1) Upon an individual by delivery of a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to the individual personally by any disinterested person, or by mailing a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to the individual by registered or certified mail, return receipt requested, or by any other method ordered by the court to give such individual notice of the action and sufficient time to prepare any defense thereto.
- (2) Upon a foreign corporation by delivery of a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents by any disinterested person to the president, secretary, or treasurer of such corporation or to any agent or attorney for service of process designated by the corporation in the state of incorporation, or by mailing a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents to any such officer or agent or to the corporation at its business address designated in the state of incorporation by registered or certified mail,

return receipt requested, or by any other method ordered by the court to give such corporation notice of the action and sufficient time to prepare any defense thereto.

(F) *Service Outside the State in Certain Actions.* Where service cannot with due diligence be made personally within the state, service of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents may be made outside the state in the manner provided by subdivision (E) of this rule in the following cases:

(1) Where an interest of a person in property or credits within the state has been brought before the court by attachment or trustee process; or

(2) Where a pleading demands a judgment that a person be excluded from a vested or contingent interest in or lien upon specific real or personal property within the state; or that such an interest or lien of any party be enforced, regulated, defined, determined, or limited.

(G) *Service by Publication.* Whenever in an action described in subdivision (F) of this rule complete service cannot with due diligence be made by another prescribed method, the court shall order service by publication of a notice of the action in one or more newspapers in such form and for such length of time as the court shall direct. If a statute expressly provides for service of process by publication, publication shall be in the form and manner provided by such statute.

(H) *Proof of Service.* The person serving the process shall make proof of service thereof on the original process or a paper attached thereto for that purpose, and shall forthwith return it to the plaintiff's attorney or a self-represented litigant. If service is made other than by a duly authorized officer in accordance with Title 9, Chapter 5 (Writs, Summons, and Process) of the Rhode Island General Laws, that person shall make affidavit thereof. A copy of any return receipt received in connection therewith shall be filed by the plaintiff's attorney or a self-represented litigant when returned. The plaintiff's attorney or a self-represented litigant shall, within the time during which the person served must respond to the process, file the proof of service with the court. Failure to make proof of service does not affect the validity of the service.

(I) *Amendment.* At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(J) *Summons: Time Limit for Service.* If service of the summons, complaint, Language Assistance Notice, and all other required documents is not made upon a defendant within one hundred and twenty (120) days after the commencement of the action the court upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

(K) Attachment and Trustee Process.

(1) Availability of Remedies. In connection with the commencement of any action under these rules, attachment, including trustee process, shall be available to the extent and in the manner provided by law.

(2) Writ of Attachment: Form. The writ of attachment shall:

- (i) Bear the Signature of the clerk, be under the seal or watermark of the court, contain the name of the court, the names and residences of the parties and the trustee, if any, and the date of the commencement of the action; and
- (ii) Be directed to a duly authorized officer in accordance with Title 9, Chapter 5 (Writs, Summons, and Process) and command them to attach the goods or estate of the defendant to the value of the amount of the plaintiff's demand for judgment, together with a reasonable allowance for interest and costs, and to make due return of their doings thereon.

The most current writ of attachment is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(3) Writ of Attachment: Issuance. The writ of attachment, shall be filled out by the plaintiff's attorney or a self-represented litigant as provided in paragraph (2) of this subdivision, and shall be submitted to the court with a motion for its issuance. The motion shall be granted only upon a showing that there is a probability of a judgment being rendered in favor of the plaintiff and that there is a need for furnishing the plaintiff security in the amount sought for satisfaction of such judgment, together with interest and costs. A motion hereunder shall not be granted ex parte. Security may be required in connection with issuance of any writ of attachment.

A surety upon a bond or undertaking under this rule submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith send copies to the persons giving the security if their addresses are known.

(4) Writ of Attachment: Service. The plaintiff's attorney or a self-represented litigant shall deliver to the officer making service a copy of the proposed writ of attachment together with a copy of the motion for its issuance and the notice of hearing thereof. When the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents are served upon the defendant as provided in subdivisions (D) through (G) of this rule, the defendant shall also be served with a copy of the proposed writ of attachment and of the motion for its issuance with the notice of the hearing thereof. An attachment made

after service of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents shall be made as provided in paragraph (6) of this subdivision.

(5) Attachment on Counterclaim, Cross-claim, or Third-party Complaint. Attachment may be utilized by a party bringing a counterclaim, a cross-claim, or a third-party complaint in the same manner as upon an original claim.

(6) Subsequent Attachment. After service of the summons and complaint upon the defendant, attachment shall be available to the extent and in the manner provided by law, shall follow the form prescribed in paragraph (2) of this subdivision, and shall be issued in accordance with paragraph (3) of this subdivision. All papers shall be served upon the defendant in the manner provided for service of process under subdivisions (D) through (G) of this rule unless the defendant has appeared in the action, in which case service shall be made as provided in Rule 2.04(B).

(7) Proof of Service. Upon service of a writ of attachment and copy thereof, the person making the service shall make the proof of service as provided in subdivision (H) of this rule.

(L) Arrest.

(1) Availability of Remedy. In connection with the commencement of any action under these rules, a writ of arrest shall be available to the extent and in the manner provided by law.

(2) Form and Service. The writ of arrest shall be obtained and filled out in the same manner as a writ of attachment, except that the writ of arrest shall be directed only to the sheriff and the sheriff's deputies. It shall be accompanied by such affidavit as may be required by law, and shall be submitted to the court with a motion for its issuance. An order of issuance shall be indorsed on the writ by the court. Service of such writ shall be accompanied by service upon the defendant of a copy of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents, and proof of service shall be made in the same manner as proof of service on a writ of attachment.

(3) Subsequent Writ of Arrest. After service of the summons, Small Claims Notice of Suit, Language Assistance Notice, and all other required documents upon the defendant a writ of arrest shall be available to the extent and in the manner provided by law and shall be issued and served as provided in paragraph (2) of this subdivision.

(4) Ne Exeat. An order of arrest may be entered when the plaintiff has demanded and would be entitled to a judgment requiring the performance of an act, the neglect or refusal to perform which would be punishable by the court as a

contempt, and where the defendant is not a resident of the state or is about to depart therefrom, by reason of which nonresidence or departure there is danger that such judgment or order will be rendered ineffectual.

2.04 Service and Filing of Pleadings and Other Papers

(A) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal and similar paper shall be served upon each of the parties in accordance with Rule 1.03(I) and contain the Certificate of Service in Rule 1.03(B). Service by or upon those who are not Registered Users shall be in accordance with subdivision (b) and contain the certificate of service in Rule 1.03(B). No service need be made on parties in default for failure to appear except that motions for assessment of damages and pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 2.03.

(B) Service: How Made.

(1) Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless the court orders service on the party. Motions to withdraw by attorneys and objections thereto must be served upon both the attorney and the party.

(2) For attorneys and self-represented litigants who are Registered Users, service is made electronically using the EFS.

(3) For incarcerated individuals, attorneys who are granted a waiver pursuant to Art. X, Rule 3(c) of the Rhode Island Supreme Court Rules Governing Electronic Filing, and self-represented litigants who do not elect to electronically file pursuant to Art. X, Rule 3(b), service under subsection (A) is made by:

(i) Delivering a copy to the person served by:

(a) Handing it to the person;

(b) Leaving it at the person's office with a clerk or other person in charge; or

(c) Leaving it at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

(ii) Mailing a copy to the last known address of the person served. Service by mail is complete on mailing.

(C) Service: Numerous Defendants. In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

2.05 Scheduling of Cases. A defendant shall serve the Defendant's Answer to Small Claims Notice of Suit within twenty (20) days after the service of the summons, Small Claims Notice of Suit, and Language Assistance Notice upon the defendant, unless the court directs otherwise when service of process is made pursuant to an order of court. The most current version of the Defendant's Answer to Small Claims Notice of Suit is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms. After the Defendant's Answer to Small Claims Notice of Suit is filed, the clerk of the District Court will assign a trial date.

2.06 Postponements. All postponements of trial dates must be approved by a judicial officer sitting in the division of the District Court where the case has been assigned. The clerk will assign a new trial date.

23.00 Representation of Parties

23.010 Individuals. There is no requirement that an individual person as either the Plaintiff or the Defendant be represented by an attorney. However, such a person may engage at his or her own expense such attorneys as he or she should desire.

23.021 Representation-Unincorporated business. The owner or any partner (if the business is owned by more than one (1) owner) may represent an unincorporated business. A Limited Liability Company (LLC) and Limited Liability Partnership (LLP) shall be subject to Rule 3.03.

23.032. Representation-Corporations. If a plaintiff corporation, at the time of filing the small claims action, has assets under \$1,000,000-00 and if it is a close corporation as set forth in Section G.L. 1956 § 7-1.24-541701 of the Rhode Island General Laws, then an officer of the that corporation may designate by affidavit a representative to prosecute claims in a the Small Claims action Court provided that the affidavit of designation has been filed with the Division of the District Court in which the claim has been filed. All other corporations, whether Plaintiff or Defendant, must be represented by an attorney. (Reference: R.I.G.L. 10-16-3.1.) The affidavit of designation shall be attached to the Small Claims Notice of Suit before the filing is accepted by the clerk. All other plaintiff corporations must be represented by an attorney. See G.L. 1956 § 10-16-3.1. A defendant corporation must be represented by an attorney, no exceptions. For purposes of small claims actions, a corporation is defined as any entity that is (1) a corporation; (2) a LLC; (3) a LLP; or (4) any other entity that is required to register with the secretary of state in order to transact business in this state.

34.00 Rules of Civil Procedure

4.01 The District Court Civil Rules (D.C.R.). The ~~D.C.R. rules of civil procedure~~ shall not apply to any small claims action except for those D.C.R. provisions that are specifically noted in these rules that specifically apply to small claims. Rule D.C.R. 69 relating to execution, attachment, trustee process, and wage attachment shall apply to small claims actions. Any motion which may be granted or any order which may be entered by rule of court under the ~~D.C.R. rules of civil procedure~~ may be granted by rule of court under these rules. (~~D.C.R. Rule 81 of DCCR~~). No provisions for pre-trial discovery shall exist except as set forth in ~~R.I.G.L. G.L. § 10-16-10~~ in regard to depositions.

34.021 Evidence. While the method of presenting evidence shall be relaxed, it is still expected that only competent, relevant, and material evidence shall be considered by the ~~Court~~.

45.00 Jurisdiction of Subject Matters and Monetary Damages

5.01 Jurisdiction. ~~The Small Claims actions are Court is governed by G.L. § Section 10-16-1, et seq., of the General Laws of the State of Rhode Island and the jurisdictional limit for the amount of monetary judgments is established therein.~~ These provisions shall be strictly enforced, and when a small claims matter contains several causes of action, some of which are based on Tort or Negligence ~~Nnegligence or other Ftorts~~, then the presumption shall be that the entire claim should be dismissed without prejudice so that all causes of action may be heard at once in the proper forum. Debt on Judgment actions cannot not be filed as a in the Ssmall Claims action Court.

45.021 Dismissal of Claims from the Small Claims Court Actions. If the ~~Court~~ becomes aware that the same cause of action between the same parties is currently before a regular session of the District or Superior Courts, then the ~~Court should~~ shall dismiss the ~~Ssmall Claims action~~ without prejudice so ~~that the other Court may be able to resolve the dispute.~~

45.032 Counterclaims. A counterclaim may be heard ~~by the~~ in a Ssmall Claims proceeding Court if the cause of action was of such a nature that had the ~~Ddefendant~~ sued the ~~Pplaintiff~~ on this claim said action, the ~~Ccourt~~ would have been empowered to hear it.

45.043 Jurisdictionally Excessive Counterclaims. If a counterclaim is filed alleging damages exceeding the jurisdictional limit of a ~~the Ssmall Claims action Court~~, a judicial officer the judge hearing the matter may:

- (Aa) Determine that the defendant is due more than \$1500, enter decision against the plaintiff, award defendant his or her costs. The defendant's right to sue the plaintiff in another court is unaffected. Enter a decision against the plaintiff as in case of nonsuit, and for the defendant for his or her costs only, and shall not further adjudicate upon the claim of the defendant, whose right to sue for the claim shall remain in the same manner as before the commencement of the action. (R.I.G.L. G.L. § 10-16-9);

- (Bb) Dismiss without prejudice both the ~~C~~claim of the ~~P~~plaintiff and the ~~D~~defendant; or
- (Ce) Dismiss only the counterclaim without prejudice provided that the counterclaim is a permissive counterclaim and not a compulsory counterclaim.

Rule 5.00. Filing, Notice and Scheduling of Cases

~~(a) Commencement of Action.~~ A small claim action shall ordinarily be commenced by the filing of a “Small Claims Notice of Suit” in a form substantially similar to that appended to these rules as FORM 1. If the plaintiff is represented by an attorney, said attorney may commence the action by mailing a “Small Claims Notice of Suit” to the defendant or defendants as provided in section (b). If the plaintiff is a municipality bringing suit to recover the amount of a tax, its counsel shall commence the action by mailing a “Small Claims Notice of Suit” to the defendant or defendants as provided in section (b). Also, any counsel who shall file more than five (5) actions pursuant to these Rules in any division in a calendar week shall commence said actions by mailing a “Small Claims Notice of Suit” to the defendant or defendants as provided in section (b).

~~(b) Notice.~~ If suit has been commenced by filing a “Small Claims Notice of Suit”, the clerk of the District Court who has been assigned the responsibility of handling small claims for a division shall mail a copy of the “Notice of Suit” to the defendant, or defendants if more than one, at the address listed by the plaintiff indicated on the “Notice of Suit”, by registered or certified mail. If plaintiff is represented by an attorney, and said attorney has elected to commence suit by mailing a “Notice of Suit” to the defendant or defendants, said attorney shall do so by registered or certified mail. A separate “Small Claims Notice of Suit” shall be mailed to each defendant. In all instances where suit has been commenced by the mailing of a “Notice of Suit” by registered or certified mail, and service is completed, the “Small Claims Notice of Suit” shall be filed within ten (10) days of the completion of service.

~~(c) Scheduling of Cases.~~ The clerk of the District Court who has been assigned the responsibility of handling small claims for a division will assign an answer date and a trial date and indicate said dates on the Notice of Suit which is mailed to the defendants; if the action has been commenced by the mailing of the Notice of Suit by plaintiff's attorney, said attorney will indicate the answer and trial dates on the Notice of Suit in accordance with the times and dates established by the court for hearings on small claims actions. The answer date must be at least fourteen (14) days from the date that plaintiff's claim has been mailed to the defendant or defendants and the trial date should be no less than fourteen (14) days after the answer date and no more than twenty one (21) days after the answer date. These filing guidelines may be waived when in the opinion of the clerk there is a valid reason for such waiver, to include such reasons as avoidance of the holiday period in December and the over scheduling of cases for the same court date. In any case where an attorney has commenced suit by mailing a Notice of Suit to a defendant or defendants, service upon the defendant must occur no less than ten (10) days before the designated answer date.

Rule 5.01. Scheduling of Cases--Alternative Service

~~(a) Refusal of Certified Mail Shall Constitute Valid Service.~~ The original answer date does not change.

~~(b) Unclaimed Defendant's Notice Must Be Served by a Process Server.~~ The clerk or, subject to the provisions of Rule 5.00(e), the attorney for the plaintiff, may change the answer date and the trial dates. Alternate service upon the defendant must occur no less than seven (7) days before the designated answer date.

Rule 5.02. Postponements

All postponements of trial dates must be approved by the Judge sitting in the division of the District Court where the case has been assigned unless a written stipulation reassigning the case has been signed by both parties and submitted prior to the trial date.

6.00 Enforcement of Judgments

6.01 Default. If a defendant fails to answer and defend the claim after proper service as set forth in Rule 2.03, the court shall automatically enter a default and judgment against the defendant without further notice.

6.02 Entry and Enforcement of Judgment. Once a judgment has been entered, that judgment shall be enforced in the same manner and form as if the action had originally been filed as a regular action in the District Court. 6.01 Use of Forms and Writs.—The following District Court forms and writs that are used in the District Court may be used in a small claims action without the need for adaptation to include: Writ of Execution; and Citation in Supplementary Proceedings; Writ of Execution – Goods, Chattels, and Real Estate; Writ of Execution – Goods, Chattels, and Real Estate to Garnishee/Trustee; Request for Application for Citation in Supplementary Proceedings; Citation in Supplementary Proceedings; Show Cause Citation to Show Cause for Noncompliance with Court Order; Writ of Body Attachment; Writ of Attachment; Notice and Motion to Attach Wages; Defendant/Debtor's Objection to Wage Attachment; Notice to Employer; Notice of Attachment (Not for Wages); Defendant/Debtor's Objection to Notice of Attachment (Not for Wages); Witness Subpoena; and Subpoena Duces Tecum; and Stipulation.

~~A separate application for a citation is not necessary. The request can be made in writing on the back of the execution.~~ In the event of the post-judgment attachment of a Bank Account, the same notices and right to a hearing that a Defendant is accorded in a regular case of the District Court shall apply. The most current version of the forms are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

7.00 Appeals

7.01 Appeal Rights. Pursuant to By Section G.L. § 10-16-1 of the General Laws of the State of Rhode Island, the Plaintiff waives the right to of appeal from any adverse decision

rendered in a small claims action. ~~A~~ ~~The~~ ~~Defendant~~ ~~may~~, within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, ~~may~~ claim an appeal from any adverse decision other than those described in Section G.L. § 10-16-14 ~~of the General Laws of the State of Rhode Island~~. See G.L. § 9-12-10. ~~The~~ appeal must be filed in writing with the clerk of the ~~D~~ivision of the District Court where the Small Claims action was entered and by simultaneously paying the appropriate appeal fee plus any applicable technology surcharges. The most current version of the appeal form is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms. By filing a counterclaim, a ~~the~~ ~~Defendant~~ waives the right to appeal on a counterclaim, and the Plaintiff has the right to appeal on a counterclaim only.

7.021 Cost of appeal. - The filing fee ~~of~~ for an appeal from a small claims action shall be set by statute plus any applicable technology surcharges. ~~all costs of court or a sum of \$25.00 whichever is greater.~~ ~~In addition when the Plaintiff is represented by an attorney, then the cost of the appeal shall include an additional attorney fee.~~ (Reference: RIGL 9-12-10.)

Form 1. Notice of Suit

STATE OF RHODE
ISLAND
DISTRICT COURT
____ DIVISION

**SMALL CLAIMS
NOTICE OF SUIT**

TO DEFENDANTS:

DOCKET NO.
RECEIPT NO.
CONTINUANCES

ATTORNEY FOR
DEFENDANT

WITNESS SEAL OF COURT

___ DAY OF ___ 19___

CLERK

PLAINTIFF(S) (Name and Address)

ATTORNEY FOR PLAINTIFF
(Name, Address and Phone)

THE ABOVE PLAINTIFF(S) CLAIM YOU OWE \$ _____ FOR THE FOLLOWING REASONS:

PLUS COSTS OF SUIT \$ _____

- BOOK ACCOUNT
- OTHER (EXPLAIN BELOW)

PLAINTIFF(S) WAIVE RIGHT OF APPEAL

Plaintiff/Plaintiff's Attorney

PROOF OF CLAIM AND MILITARY SERVICE AFFIDAVIT

I, _____, on oath, depose and say that defendant(s) owe \$ _____ as set forth above and are not at the time of the commencement of the above entitled action, nor are now, in the military service of the United States as defined in Article I of the "Soldiers and Sailors Civil Relief Act of 1940" as amended, nor an infant or an incompetent and presently reside at the above address.

Subscribed and Sworn to
before me on _____

Signature/Title	Notary/Clerk
ANSWER DATE	TRIAL DATE
Set by Court or plaintiff's attorney	Set by Court or plaintiff's attorney

JUDGMENT	DAMAGES	ENTRY FEE	D
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> OTHER	e

JUDGMENT PLAIN-
TIFF

JUDGMENT DEFEN-
DANT

AFTER
DEFAULT

AFTER
TRIAL

AGREEMENT
FOR PAY-
MENT

See attached agreement
for terms of payment

ENTER
_____ J.

-
DATE

-
BY ORDER

CLERK

\$_____

\$_____

INTEREST

SERVICES

\$_____

\$_____

ATTY. FEES

OTHER

\$_____

\$_____

k
e
t
N
e:

TOTAL
\$_____

TOTAL
COSTS
\$_____