

TITLE 1
COURTS AND COURT OFFICIALS

CHAPTER 23
SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE DIVISION

1-2301. SMALL CLAIMS DEPARTMENT -- CREATION -- SCOPE OF CLAIMS -- VENUE. In every magistrate's division of the district court of this state, the district court may create and organize a "Small Claims Department of the Magistrate's Division," which shall have jurisdiction in cases for the recovery of money where the amount of each claim does not exceed five thousand dollars (\$5,000), and in cases for the recovery of personal property where the value of the property does not exceed five thousand dollars (\$5,000); provided however, that the small claims department shall not award punitive damages or damages for pain or suffering in any proceeding. Any action brought in a small claims department of the magistrate's division shall be brought in the magistrate's division in the county where the defendant resides or the county where the cause of action arose. A defendant may request a change of venue if an action is brought in an improper county.

[1-2301, added 1969, ch. 103, sec. 1, p. 348; am. 1973, ch. 42, sec. 1, p. 78; am. 1976, ch. 125, sec. 1, p. 474; am. 1978, ch. 365, sec. 1, p. 954; am. 1981, ch. 180, sec. 3, p. 317; am. 1983, ch. 192, sec. 1, p. 521; am. 1984, ch. 199, sec. 1, p. 489; am. 1992, ch. 74, sec. 3, p. 212; am. 1995, ch. 183, sec. 1, p. 669; am. 2000, ch. 250, sec. 3, p. 704; am. 2002, ch. 74, sec. 1, p. 163; am. 2006, ch. 263, sec. 3, p. 816.]

1-2301A. DRAWING CHECK WITHOUT FUNDS OR INSUFFICIENT FUNDS -- CIVIL LIABILITY. In any action filed in the small claims department against a person who makes any check, draft or order for the payment of money which has been dishonored for lack of funds or credit to pay the same, or because the maker has no account with the drawee, the plaintiff, or a collection agency with a license issued to it pursuant to section [26-2225](#), Idaho Code, which is attempting to collect the dishonored check under a written agreement with the payee or holder of the check, may recover from the defendant the amount of the check, draft or order and, in addition thereto, the greater of the amount of one hundred dollars (\$100) or three (3) times the amount for which the check, draft or order is drawn. Except as provided in section [1-2304](#), Idaho Code, the plaintiff or collection agency may recover no other costs, fees, charges or damages. However, damages recovered under the provisions of this section shall not exceed by more than five hundred dollars (\$500) the value of the check, draft or order and may be awarded only if the plaintiff made written demand of the defendant for payment of the amount of the check, draft or order not less than ten (10) days before commencing the action, and if the defendant failed to tender to the plaintiff, prior to commencement of the action, an amount of money not less than the amount demanded. The written demand required by this section shall be sent to the maker by certified mail at his last known address, or by regular mail, supported by an affidavit of service by mailing, to the address printed or written on the check as provided in section [28-22-106](#), Idaho Code, in which case the demand shall be deemed conclusive three (3) days following the date the affidavit is executed. The written demand shall fully advise the maker of the check, draft, or order of the consequences of failure to make prompt payment under this section. The

plaintiff or collection agency must show proof of service by producing a copy of a signed return receipt or affidavit of personal service.

[(1-2301A) 18-3107, added 1982, ch. 156, sec. 1, p. 422; am. and re-designated as sec. 1-2301A, 1983, ch. 192, sec. 2, p. 521; am. 1996, ch. 373, sec. 1, p. 1269; am. 1999, ch. 115, sec. 1, p. 349; am. 2001, ch. 22, sec. 1, p. 28; am. 2002, ch. 288, sec. 1, p. 834; am. 2008, ch. 347, sec. 32, p. 958.]

1-2302. COMMENCEMENT OF ACTIONS. Actions in such small claims department shall be deemed commenced by the plaintiff subscribing to, verifying and filing a claim as hereinafter provided.

[1-2302, added 1969, ch. 103, sec. 2, p. 348.]

1-2303. FILING OF CLAIM -- DEFAULT. (1) Upon filing a claim, the clerk shall furnish to the plaintiff a form of answer and instructions to the defendant, which among other matters shall advise the defendant that if the defendant desires to have a hearing on the matter, the defendant must sign, complete and file the answer with the clerk. The instructions also shall notify the defendant that if the defendant does not sign and file the answer within twenty-one (21) days from the date of service on the defendant, judgment will be entered as requested in the claim.

(2) If no answer is filed within twenty-one (21) days, judgment may be entered by the court as provided in rule 55, I.R.C.P. If an answer is filed by the defendant, the court shall set the matter for trial or mediation by notice mailed to each party.

(3) The court shall collect in advance upon each claim the sum of thirty-three dollars (\$33.00), which shall be in addition to the costs necessary to effect service of the claim upon the defendant. This fee shall be distributed as follows: seven dollars (\$7.00) shall be paid to the county treasurer for deposit in the district court fund of the county; six dollars (\$6.00) shall be paid to the county treasurer who shall, within fifteen (15) days after the end of the month, pay such fee to the state treasurer for deposit in the senior magistrate judges fund; and twenty dollars (\$20.00) shall be paid to the county treasurer who shall, within fifteen (15) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

[1-2303, added 2000, ch. 250, sec. 5, p. 705; am. 2009, ch. 80, sec. 1, p. 221; am. 2014, ch. 190, sec. 2, p. 507; am. 2018, ch. 126, sec. 1, p. 265; am. 2023, ch. 78, sec. 2, p. 265.]

1-2304. SERVICE OF PROCESS -- SERVICE BY MAIL. (1) A summons, copy of the claim, form of answer and instructions to defendant shall be served upon the defendant by personal service in the manner provided by law, or when a request is made therefor by the plaintiff, service of process may be made upon the defendant by mail, as herein provided.

(2) The plaintiff may request service upon the defendant by mail by endorsing his request in writing upon the claim, which request shall include the address to be used in mailing. The court shall mail to the defendant at the address given in the endorsement a summons, copy of the claim, form of answer and instructions to the defendant. Service of process by mail shall be made by registered or certified mail, return receipt requested, and shall be

complete upon the return of the receipt signed by the defendant to the court. The signature of the defendant on the return receipt shall constitute prima facie proof of service by mail. The plaintiff shall bear the cost of service of process by mail.

(3) The costs to plaintiff for personal service of process on the defendant, in addition to the filing fee provided in section [1-2303](#), Idaho Code, shall be added to any judgment for the plaintiff.

[1-2304, added 2000, ch. 250, sec. 6, p. 705.]

1-2305. CONTENTS OF CLAIM. The claim shall contain the name of the plaintiff and the name of the defendant, followed by a statement, in brief and concise form, of the nature and amount of the claim and the time the claim accrued, and shall also state the address of the defendant, if known to the plaintiff.

[1-2305, added 1969, ch. 103, sec. 5, p. 348; am. 2000, ch. 250, sec. 7, p. 706.]

1-2306. ACTIONS BY OR AGAINST STATE OR LOCAL GOVERNMENT OFFICIALS OR AGENCIES. (1) Except as specifically provided in this subsection, the state of Idaho, any state agency, any political subdivision of the state of Idaho, city, county, taxing district, or public corporation, along with any official and employee thereof acting within their official capacity may be a party plaintiff or defendant in any small claims action otherwise allowed by law. Any state agency or other governmental entity which is a party to a small claims action may appear as provided in subsection (2) of this section. The governmental agency or entity may not appear through the office of the attorney general, notwithstanding the provisions of section [67-1401](#), Idaho Code, nor through any other attorney at law, whether an employee of the agency or entity or otherwise. No action may be prosecuted in the small claims department against the state of Idaho or any justice or judge thereof based upon any act or omission alleged to have been committed by the justice or judge while acting in an official capacity.

(2) Notwithstanding the provisions of section [1-2301](#), Idaho Code, a small claims action filed against the state of Idaho, or any agency thereof, or any official or employee of the state of Idaho while acting in an official capacity shall be filed in the county of the plaintiff's residence, or if the plaintiff is not a resident of the state of Idaho, in the county where the cause of action arose. In either case, the plaintiff, in addition to service on the defendant, shall serve the Idaho attorney general by certified or registered mail. Prior to appearing in the defense of any small claims action, the defendant public official, or chief executive officer of the defendant agency, with the advice of the attorney general, shall designate in writing the nonattorney employee or agent of the state who is authorized to appear in defense of the action. The written designation shall be filed with the court.

[1-2306, added 2000, ch. 250, sec. 9, p. 706.]

1-2307. ATTORNEYS AT LAW -- COLLECTION AGENCIES -- WITNESSES AND EVIDENCE -- JUDGMENT. [(1)] It shall not be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf, themselves and witnesses appearing at such hear-

ing, and being duly sworn as in other cases, and the magistrate shall render and enter judgment as in other cases. No attorney at law shall appear before the court on behalf of any party at any trial, pretrial matter or posttrial motion in the small claims department; provided however, that nothing herein shall be construed to prevent an attorney at law from providing a party with legal advice concerning the issues in a case or the preparation or presentation of the case, including the preparation of exhibits, affidavits, or memoranda to be presented by the party to the action. An attorney may appear in any proceeding after entry of a small claims judgment relating to the execution of the judgment, including any proceeding for the examination of the judgment debtor in aid of execution of the judgment. Any attorney at law or law firm may be a party to a small claims proceeding and may prosecute any claim the attorney or law firm may have, except any claim obtained by assignment, and may appear before the court as any other plaintiff or defendant in the case.

(2) In any case in which a business organization is a party including, without limitation, a corporation, whether nonprofit or for profit, partnership, professional association or sole proprietorship, no person shall represent the organization except an owner of a substantial interest in the organization or any nonattorney employee of the organization. At the option of the business organization, the same owner or nonattorney employee may represent the business organization in any trial de novo on appeal to the magistrate division and the organization shall not be required to appear through an attorney at law.

(3) Any assignee of a debt or claim triable in the small claims department, including any licensed collection agency, may bring an action in small claims court; provided however, that no attorney at law who is an assignee of the debt or claim may appear before the small claims court.

[(1-2307) 1-2308, added 1969, ch. 103, sec. 8, p. 348; am. 1991, ch. 291, sec. 1, p. 751; am. 1996, ch. 373, sec. 3, p. 1270; am. and redesign. 2000, ch. 250, sec. 10, p. 707.]

1-2309. OTHER FORMAL PLEADINGS NOT NECESSARY -- SPEEDY TRIAL -- RESTRICTION ON EXECUTORY WRITS. No formal pleading other than the said claim and notice shall be necessary to define the issue between the parties, and the hearing and disposition of all such actions shall be informal with the sole object of dispensing speedy and quick justice between the litigants, provided, however, that no attachment, garnishment or execution shall issue from the small claims department on any claim except as hereinafter provided.

[1-2309, added 1969, ch. 103, sec. 9, p. 348.]

1-2310. JUDGMENT AGAINST DEFENDANT. If the judgment or order shall be against the defendant, it shall be his duty to pay the same forthwith or execution may ensue as in other cases. On and after sixty (60) days from the date judgment is rendered, the plaintiff shall be entitled to receive, in addition to the amount awarded in the judgment, attorney's fees and all documented costs associated with collection of the judgment. Such attorney's fees and costs shall be set by the court following the filing of a memorandum of attorney's fees and costs with notice to all parties and hearing.

[1-2310, added 1969, ch. 103, sec. 10, p. 348; am. 2006, ch. 263, sec. 4, p. 817.]

1-2311. APPEAL TO LAWYER MAGISTRATE. If either party is dissatisfied, he may, within thirty (30) days from the entry of said judgment against him, appeal to a lawyer magistrate other than the magistrate who entered said judgment; and if the final judgment is rendered against him by such lawyer magistrate, then he shall pay, in addition to any judgment rendered in the magistrate's division, an attorney's fee to the prevailing party in the sum of twenty-five dollars (\$25.00), provided, however, that appeals from such small claims department shall be allowed only in such cases as appeals would be allowed if the action were instituted in the magistrate's division as is now provided, and further provided that the appeal shall be heard in the county wherein the original small claim was filed. A fee of twenty dollars (\$20.00) shall be paid by the party taking the appeal, which shall be paid to the county treasurer who shall, within fifteen (15) days after the end of the month, pay such fees to the state treasurer for deposit into the court technology fund.

[1-2311, added 1969, ch. 103, sec. 11, p. 348; am. 1985, ch. 167, sec. 1, p. 443; am. 2014, ch. 190, sec. 3, p. 508; am. 2023, ch. 78, sec. 3, p. 266.]

1-2312. FORM FOR APPEAL -- FILING AND DISPOSITION. An appeal from the small claims department may be in the following terms:

In the Magistrate's Division of the District Court for County, Idaho, Plaintiff, vs., Defendant. Comes now, resident of County, Idaho and appeals from the decision of the small claims department of the magistrate's division for County, Idaho, wherein a judgment for dollars was awarded against him on the day of,

..... (Signed)

Such appeal shall be filed with the magistrate's division. Such appeal shall be tried in the magistrate's division without any other pleadings than those required in the small claims department originally trying the cause, all papers in the case shall be certified to said lawyer magistrate as is now provided by law in other cases of appeals in civil actions in the magistrate's division, provided, however, that said lawyer magistrate may require such other or further statements and information as he may deem necessary for the proper consideration of said controversy.

[1-2312, added 1969, ch. 103, sec. 12, p. 348; am. 1985, ch. 167, sec. 2, p. 444; am. 2002, ch. 32, sec. 1, p. 47.]

1-2313. JUDGMENT -- ENTRY ON DOCKET -- ENFORCEMENT. If no appeal is taken by the defendant and the defendant fails to pay the judgment according to the terms and conditions thereof, the magistrate before whom such hearing was had, may, on application of the plaintiff, certify such judgment in substantially the following form:

In the Magistrate's Division of the District Court for County, Idaho
Plaintiff

v.

Defendant

In the Small Claims Department

This is to certify that in a certain action before me, the undersigned, had on this the day of, 20..., wherein was plaintiff and was defendant, jurisdiction of said defendant having had by personal service (or otherwise), as provided by law, I then and there entered judgment against said defendant in the sum of dollars, which judgment has not been paid.

Witness my hand this day of, 20...

..... Magistrate
sitting in the small claims department.

The magistrate of said magistrate's division shall forthwith enter such judgment transcript on the judgment docket of such magistrate's division, and thereafter execution and other process on execution provided by law may issue thereon, as obtains in other cases of judgments of magistrate's division, and a transcript of such judgments may be filed and entered in judgment lien dockets in district courts with like effect as in other cases.

[1-2313, added 1969, ch. 103, sec. 13, p. 348; am. 2000, ch. 250, sec. 11, p. 708.]

1-2314. SEPARATE DOCKET FOR SMALL CLAIMS DEPARTMENT. Each magistrate shall keep a separate docket for the small claims department of his division in which he shall make a permanent record of all proceedings, orders and judgments had and made in such small claims department.

[1-2314, added 1969, ch. 103, sec. 14, p. 348.]

1-2315. JURY TRIAL NOT ALLOWED. No party may have his cause heard before a jury in the small claims department of the magistrate's division of the district court.

[1-2315, added 1969, ch. 103, sec. 15, p. 348.]