Checklist for Affidavit and Summons

- You must complete a form before you file it. These instructions will help you complete the forms.
- If you still have difficulty after reading these instructions, contact the Self Help Center. See http://www.utcourts.gov/selfhelp/contact/.
- The judicial services representative cannot complete a form for you.
- Attach a copy of any document referred to in the form.
- Keep a copy of all documents for your records.
- Attend all court hearings.
- Some forms may not apply in your case.
- Check with your court about local requirements.

(1) Affidavit and Summons

- ☐ Print your name and contact information at the top of the first page. Check whether you are the plaintiff or the attorney for the plaintiff.
- ☐ Print the county and judicial district. Print the court address.
- ☐ The plaintiff's name. If you are suing in your personal capacity use your name. If you are representing a business with a trade name, including a corporation, partnership or solely owned business, use the business' trade name.
- ☐ The defendant's name. If you are suing a natural person, use the person's name. If you are suing a business with a trade name, including a corporation, partnership or solely owned business, use the business' trade name. Contact the Department of Commerce to obtain a corporation's name and the name of its registered agent.
- ☐ Case number. Leave blank. The court clerk assigns the case number.
- ☐ Paragraph (1): Enter the amounts claimed in the spaces provided. Include in the principal amount any interest accrued to the date of filing. Do not file an amended Affidavit to claim interest between the filing date and the judgment date. If the court grants judgment, the court will include prejudgment interest in the judgment if you qualify for it.
- ☐ Paragraph (2): Enter the date on which the events happened. Describe the facts.
- ☐ Paragraph (3): Check either or both boxes that apply.
- ☐ Paragraph (4): Check the box. You cannot sue in small claims a governmental entity or governmental employee for on-the-job conduct.
- ☐ Paragraph (5): Check the box. You cannot sue in small claims if the claim has been assigned to you.

- ☐ Paragraph (6): Do not check this box unless the defendant resides in unincorporated Cache County or in a municipality within Cache County that does not have a justice court **and** the cause of action arose in unincorporated Cache County or in a municipality within Cache County that does not have a justice court. Only if both things are true can you file your claim in the Cache County District Court.
- ☐ Omit any private or protected information. When filed, this document is a public record. Code of Judicial Administration Rule 4-202.09(9) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see Rule 4-202.02.
- ☐ Signature. Sign the Affidavit under oath before a notary or a court clerk.
- ☐ Summons. Leave blank. The court clerk will schedule a trial date and complete the Summons, but you must arrange for serving it.

(2) To file the Affidavit and Summons

- ☐ A small claims case must be filed in the court where the defendant resides or where the claim arose (where the events happened). Depending on the circumstances this may be the justice court or the district court.
- ☐ If the defendant resides or the claim arose within a municipality and if the municipality has a justice court, file the case in the municipal justice court. If the municipality has no justice court, file the case in the county justice court. If the defendant resides or the claim arose in the unincorporated county, file the case in the county justice court.
- If there is no municipal or county justice court, file the case in the district court. Cache County is the only county that does not have a county justice court, so filing in district court should occur only in cases from unincorporated Cache County and from municipalities in Cache County that do not have a justice court.

(3) To serve the Affidavit and Summons

- ☐ You cannot serve the Affidavit and Summons yourself, but you must have the documents served on the defendant by some other person 18 or older who is not a party to the case or a party's attorney. That person must deliver the papers to:
    - the defendant at any location;
    - to a person of suitable age and discretion who lives in the defendant's home at the defendant's home; or
    - an agent authorized to receive the papers at any location.
- Deputy sheriffs, constables and private investigators commonly serve papers, and they will make sure that it is done correctly, but they will charge a fee. The clerk of the court in which you file the case can help you deliver the papers to a deputy sheriff or constable for service.

(4) Proof of Service of Affidavit and Summons

- ☐ If a sheriff, constable or private process server serves the Affidavit and Summons on the defendant, that person will complete and file a Proof of Service.
- ☐ If some other person 18 or older who is not a party to the case or a party's attorney serves the Affidavit and Summons, that person must complete and file with the court a Proof of Service form. For more information and forms, see our webpage on Serving Papers.
- ☐ If the defendant cannot be found for service, the plaintiff can ask the court to permit alternative service. For more information and forms, see our webpage on Serving Papers, the section on Alternative Service.

Justice Court Cover Sheet

Interpretation. If you do not speak or understand English, contact the court at least 3 days before the hearing or mediation, and an interpreter will be provided.

Interpretación. Si usted no habla o entiende el Inglés contacte al tribunal por lo menos 3 días antes de la audiencia o mediación y le proveerán un intérprete.

Plaintiff/Petitioner (First)

Name

Address

City, State, Zip

Phone Email

First Plaintiff/Petitioner's Attorney*

Name

Bar Number

Plaintiff/Petitioner (Second)

Name

Address

City, State, Zip

Phone Email

Second Plaintiff/Petitioner's Attorney*

Name

Bar Number

Defendant/Respondent (First)

Name

Address

City, State, Zip

Phone Email

First Defendant/Respondent's Attorney*

Name

Bar Number

Defendant/Respondent (Second)

Name

Address

City, State, Zip

Phone Email

Second Defendant/Respondent's Attorney*

Name

Bar Number

Total Claim for Damages $_____ *Claim may not exceed $11,000*

Schedule of Fees: §78a-2-301.5

-- SMALL CLAIMS AFFIDAVIT --

$ 60 ☐ Damages $2,000 or less
$100 ☐ Damages $2,001 or $7,499
$185 ☐ Damages $7,500 - $11,000

-- SMALL CLAIMS COUNTER AFFIDAVIT --

$ 50 ☐ Damages $2,000 or less
$ 70 ☐ Damages $2,001 or $7,499
$120 ☐ Damages $7,500 - $11,000

-- OTHER --

$135 ☐ Expungement Petition
$ 50 ☐ Writ
$ 35 ☐ Open Sealed Record

-- SMALL CLAIMS APPEAL--

$ 10 ☐ Notice of Appeal to District Court

$255 Appeal/Trial de novo Filing Fee payable to District Court
- ☐ is attached
- ☐ to be paid at District Court

Name

Address

City, State, Zip

Phone

Email

I am the [ ] Plaintiff
[ ] Attorney for the Plaintiff and my Utah Bar number is _____

In the Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff v. Defendant And Defendant	**Affidavit and Summons** (Small Claims) Case Number Judge

I swear that the following is true.

(1) Defendant owes me $ _____ for the claim described in paragraph (2).

plus the filing fee of $ _____

plus an estimated service fee of $ _____

plus estimated attorney fees of $ _____ (Attach statute or contract showing you are authorized to claim attorney fees.)

for a total of: $ _____

plus prejudgment interest, if qualified for prejudgment interest.

(2) The events happened on _____ (date). My claim is based on the following facts.

_____

_____

_____

_____

_____

_____

_____

_____

(3) [ ] Defendant resides within the jurisdiction of the court.
[ ] The events happened within the jurisdiction of the court.

(4) [ ] I am not suing a government entity. I am not suing a government employee for the employee's on-the-job conduct.

(5) [ ] I am not suing on a claim that has been assigned to me.

(6) [ ] I am filing this affidavit in the First District Court for Cache County because the defendant resides in unincorporated Cache County or in a municipality within Cache County that does not have a justice court and the cause of action arose in unincorporated Cache County or in a municipality within Cache County that does not have a justice court.

I have not included any non-public information in this document.

_____ Sign here ▶ _____
Date

Typed or Printed Name _____

On this date, I certify that _____ (name) who is known to me or who presented satisfactory identification, in the form of _____ (form of identification), has, while in my presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

_____ Sign here ▶ _____
Date

Typed or printed name (Court Clerk or Notary Public) _____

Notary Seal

Summons

To: *Para*:

Defendant Name and Address — *Nombre y dirección del Demandado*

Defendant Name and Address — *Nombre y dirección del Demandado*

You are summoned to appear at trial to answer the above claim. The trial will be held at the court address shown above. **If you fail to appear, judgment may be entered against you for the total amount claimed**.

Se le cita a comparecer a juicio para responder al reclamo arriba descrito. El juicio tendrá lugar en la dirección del tribunal que se muestra arriba. ***Si usted no comparece, se podría dictar un fallo contra usted por el total de la cantidad reclamada.***

Date *(Fecha)* _____ Time *(Hora)* ____ : ____ [ ] a.m. [ ] p.m.

Room *(Sala)* _____ Judge *(Juez)* _____

Notice to the Defendant

A small claims case has been filed against you. This imposes upon you certain rights and responsibilities. You can find small claims information and instructions at https://www.utcourts.gov/howto/smallclaims/.

The court's Finding Legal Help web page **(www.utcourts.gov/howto/legalassist/)** provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

Un caso de reclamos menores ha sido presentado contra usted. Esto le impone a usted ciertos derechos y obligaciones. Usted puede encontrar información e instrucciones sobre reclamos menores en https://www.utcourts.gov/howto/smallclaims/.

La página del tribunal sobre Como Encontrar Ayuda Legal (www.utcourts.gov/howto/legalassist/) proporciona información acerca de las maneras en que usted puede obtener ayuda legal, incluyendo el Centro de Ayuda del tribunal, abogados a precio reducido, ayuda legal limitada y talleres jurídicos gratuitos.

Attendance. You must attend. If you do not attend, the relief requested might be granted. You have the right to be represented by a lawyer.

> ***Asistencia.*** *Presentarse es obligatorio. Si usted no llegara a presentarse, el remedio solicitado podría ser otorgado. Usted tiene el derecho de que lo represente un abogado.*

Evidence. Bring with you any evidence that you want the court to consider.

> ***Pruebas.*** *Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.*

Interpretation. If you do not speak or understand English, contact court staff at least 3 days before the hearing, and an interpreter will be provided.

> ***Interpretación.*** *Si usted no habla ni entiende el Inglés contacte al personal del tribunal por lo menos 3 días antes de la audiencia y le proveerán un intérprete.*

Disability Accommodation. If you have a disability requiring accommodation, including an ASL interpreter, contact court staff at least 3 days before the hearing.

> ***Atención en caso de incapacidades.*** *Si usted tiene una incapacidad por la cual requiere atención especial, favor de contactar al personal del tribunal por lo menos 3 días antes de la audiencia.*

Right to Jury Trial. If you want to have a jury trial in this case, you must file documents to remove the case to district court. See the Small Claims web page for information about that process, and forms: https://www.utcourts.gov/howto/smallclaims/.

> ***El derecho a juicio por jurado.*** *Si usted quiere tener un juicio con jurado, usted deberá presentar documentos pidiendo que el caso sea transferido al tribunal de distrito. Vea la página de internet de Reclamos Menores para más información sobre el proceso y formularios: https://www.utcourts.gov/howto/smallclaims/.*

Date: _____ Sign here ► _____

Court Clerk _____