

INFORMATION FOR THE SMALL CLAIMS PLAINTIFF

This information sheet is written for the person who sues in the small claims court. It explains some of the rules of and some general information about the small claims court. It may also be helpful for the person who is sued.

WHAT IS SMALL CLAIMS COURT?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. The person who sues is the **plaintiff**. The person who is sued is the **defendant**. In small claims court, you may ask a lawyer for advice before you go to court, but you cannot have a lawyer in court. Your claim cannot be for more than \$5,000 or \$7,500 if you are a natural person (not a business or public entity)(*see below). If you have a claim for more than this amount, you may sue in the civil division of the trial court or you may sue in the small claims court and give up your right to the amount over \$5,000 or \$7,500 if you are a natural person. You cannot, however, file more than two cases in small claims court for more than \$2,500 each during a calendar year.

WHO CAN FILE A CLAIM?

1. You must be at least *18 years old* to file a claim. If you are not yet 18, tell the clerk. You may ask the court to appoint a **guardian ad litem**. This is a person who will act for you in the case. The guardian ad litem is usually a parent, a relative, or an adult friend.
 2. A person who sues in small claims court must first make a **demand** if possible. This means that you have asked the defendant to pay, and the defendant has refused. If your claim is for possession of property, you must ask the defendant to give you the property.
 3. Unless you fall within two technical exceptions, you must be the **original owner** of the claim. This means that if the claim is assigned, the buyer cannot sue in the small claims court.
- You must also appear at the small claims hearing yourself unless you filed the claim for a corporation or other entity that is not a natural person.**
4. If a corporation files a claim, an employee, officer, or director must act on its behalf. If the claim is filed on behalf of an association or other entity that is not a natural person, a regularly employed person of the entity must act on its behalf. A person who appears on behalf of a corporation or other entity must not be employed or associated solely for the purpose of representing the corporation or other entity in the small claims court. **You must file a declaration with the court to appear in any of these instances.** (See *Authorization to Appear on Behalf of Party, form SC-109.*)

WHERE CAN YOU FILE YOUR CLAIM?

You must sue in the right court and location. This rule is called **venue**. Check the court's local rules if there is more than one court location in the county handling small claims cases.

If you file your claim in the wrong court, the court will dismiss the claim unless all defendants personally appear at the hearing and agree that the claim may be heard.

The right location may be any of these:

1. Where the defendant lives or where the business involved is located;
2. Where the damage or accident happened;
3. Where the contract was signed or carried out;
4. If the defendant is a corporation, where the contract was broken;
5. For a retail installment account or sales contract or a motor vehicle finance sale:
 - a. Where the buyer lives;
 - b. Where the buyer lived when the contract was entered into;
 - c. Where the buyer signed the contract; or
 - d. Where the goods or vehicle are permanently kept.

SOME RULES ABOUT THE DEFENDANT (including government agencies)

1. You must sue using the defendant's **exact legal name**. If the defendant is a business or a corporation and you do not know the exact legal name, check with: the state or local licensing agency; the county clerk's office; or the Office of the Secretary of State, corporate status unit. Ask the clerk for help if you do not know how to find this information. If you do not use the defendant's exact legal name, the court may be able to correct the name on your claim at the hearing or after the judgment.
2. If you want to sue a government agency, you must first file a claim with the agency before you can file a lawsuit in court. Strict time limits apply. If you are in a Department of Corrections or Youth Authority facility, you must prove that the agency denied your claim. Please attach a copy of the denial to your claim.

HOW DOES THE DEFENDANT FIND OUT ABOUT THE CLAIM?

You must make sure the defendant finds out about your lawsuit. This has to be done according to the rules or your case may be dismissed or delayed. The correct way of telling the defendant about the lawsuit is called **service of process**. This means giving the defendant a copy of the claim. **YOU CANNOT DO THIS YOURSELF**. Here are four ways to serve the defendant:

1. **Service by a law officer** — You may ask the marshal or sheriff to serve the defendant. A fee will be charged.
2. **Process server** — You may ask anyone who is *not a party* in your case and who is at least *18 years old* to serve the defendant. The person is called a **process server** and must personally give a copy of your claim to the defendant. The person must also sign a proof of service form showing when the defendant was served. Registered process servers will do this for you for a fee. You may also ask a friend or relative to do it.
3. **Certified mail** — You may ask the clerk of the court to serve the defendant by certified mail. The clerk will charge a fee. You should check back with the court prior to the hearing to see if the receipt for certified mail was returned to the court. **Service by certified mail must be done by the clerk's office except in motor vehicle accident cases involving out-of-state defendants.**
4. **Substituted service** — This method lets you serve another person instead of the defendant. You must follow the procedures carefully. You may also wish to use the marshal or sheriff or a registered process server.

* The \$5,000 or \$7,500 limit does not apply, and a \$4,000 limit applies, if a "defendant guarantor . . . is required to respond based upon the default, actions, or omissions of another" (\$2,500 if the defendant guarantor does not charge a fee for the service).

(Continued on reverse)

4. **Substituted service** (continued)

A copy of your claim must be left

— at the defendant's business with the person in charge;

OR

— at the defendant's home with a competent person who is at least 18 years old. The person who receives the claim must be told about its contents. Another copy must be mailed, first class, postage prepaid, to the defendant at the address where the paper was left. The service is not complete until 10 days after the copy is mailed.

No matter which method of service you choose, the defendant must be served by a certain date or the trial will be postponed. If the defendant lives in the county, service must be completed at least 15 days before the trial date. This period is at least 20 days if the defendant lives outside the county.

The person who serves the defendant must sign a court paper showing when the defendant was served. This paper is called a *Proof of Service* (form SC-104). It must be signed and returned to the court clerk as soon as the defendant has been served.

WHAT IF THE DEFENDANT ALSO HAS A CLAIM?

Sometimes the person who was sued (the **defendant**) will also have a claim against the person who filed the lawsuit (the **plaintiff**). This claim is called the *Defendant's Claim*. The defendant may file this claim in the same lawsuit. This helps to resolve all of the disagreements between the parties at the same time.

If the defendant decides to file the claim in the small claims court, the claim may not be for more than \$5,000 or \$7,500 if the defendant is a natural person (*see reverse). If the value of the claim is more than this amount, the defendant may either give up the amount over \$5,000 or \$7,500 and sue in the small claims court or file a motion to transfer the case to the appropriate court for the full value of the claim.

The defendant's claim must be served on the plaintiff at least 5 days before the trial. If the defendant received the plaintiff's claim 10 days or less before the trial, then the claim must be served at least 1 day before the trial. Both claims will be heard by the court at the same time.

WHAT HAPPENS AT THE TRIAL?

Be sure you are on time for the trial. The small claims trial is informal. You must bring with you all witnesses, books, receipts, and other papers or things to prove your case. You may ask the witnesses to come to court voluntarily. You may also ask the clerk of the court to issue a **subpoena**. A subpoena is a court order that *requires* the witness to go to trial. The witness has a right to charge a fee for going to the trial. If you do not have the records or papers to prove your case, you may also get a court order prior to the trial date requiring the papers to be brought to the trial. This order is called a *Small Claims Subpoena and Declaration* (form SC-107).

If you settle the case before the trial, you must file a **dismissal** form with the clerk.

The court's decision is usually mailed to you after the trial. It may also be hand delivered to you when the trial is over and after the judge has made a decision. The decision appears on a form called the *Notice of Entry of Judgment* (form SC-130).

WHAT HAPPENS AFTER JUDGMENT?

The court may have ordered one party to pay money to the other party. The party who wins the case and collects the money is called the **judgment creditor**. The party who loses the case and owes the money is called the **judgment debtor**. Enforcement of the judgment is **postponed** until the time for appeal ends or until the appeal is decided. This means that the judgment creditor cannot collect any money or take any action until this period is over. Generally both parties may be represented by lawyers after judgment. More information about your rights after judgment is available on the back of the *Notice of Entry of Judgment* form. The clerk may also have this information on a separate sheet.

HOW TO GET HELP WITH YOUR CASE

1. **Lawyers** — Both parties may ask a lawyer about the case, but a lawyer may not represent either party in court at the small claims trial. Generally, after judgment and on appeal, both parties may be represented by a lawyer.
2. **Interpreters** — If you do not speak English, you may take a family member or friend to court with you. The court should keep a list of interpreters who will interpret for you. Some interpreters charge a reasonable or no fee. If an interpreter is not available, the court must postpone the hearing one time only so that you have time to get one.
3. **Waiver of fees** — The court charges fees for some of its procedures. Fees are also charged for serving the defendant with the claim. The court may excuse you from paying these fees if you cannot afford them. Ask the clerk for the *Information Sheet on Waiver of Court Fees and Costs* (form 982(a)(17)(A)) to find out if you meet the requirements so that you do not have to pay the fees.
4. **Night and Saturday court** — If you cannot go to court during working hours, ask the clerk if the court has trials at night or on Saturdays.
5. **Parties who are in jail** — If you are in jail, the court may excuse you from going to the trial. Instead, you may ask another person who is not an attorney to go to the trial for you. You may mail written declarations to the court to support your case.
6. **Accommodations** — If you have a disability and need assistance, please ask the court immediately to help accommodate your needs. If you are hearing impaired and need assistance, please notify the court immediately.
7. **Forms** — You can get small claims forms and more information at the California Courts Self-Help Center Web site (www.courtinfo.ca.gov), your county law library, or at the courthouse nearest you.
8. **Small claims advisors** — The law requires each county to provide assistance in small claims cases free of charge. (*Small claims advisor information*):

Timeout in 30 min | Not logged in [Home](#) [Login](#) [Q](#)

Small Claims Forms Assistance



Court Info



Save/Retrieve



Tutorial

[Change](#)[Section 1](#)[Section 2](#)[Section 3](#)[Section 4](#)[Section 5](#)[Section 6](#)[Complete](#)[Your Venue](#)[Getting Started](#)[Plaintiffs](#)[Defendants](#)[Claim Info](#)[Miscellaneous](#)[Preview & Print](#)[Your Filing](#)[Final Review](#)[Who Needs To Sign](#)[Legal Forms Preview and Print](#)

Who Needs To Sign

In filing a Small Claims lawsuit, certain plaintiffs **MUST** sign the lawsuit form.

Below is a list of guidelines to help you determine which plaintiff(s) must sign the form.

- If there is only one plaintiff designated as an Individual, then he or she must sign.
- Each Individual plaintiff must sign. If the plaintiffs include a husband and wife, then only one needs to sign.
- For Minors, all minors and their guardian ad litem must sign.
- For each plaintiff that is an Association, one employee from each association must sign.
- For each plaintiff that is a Corporation, one employee from each corporation must sign.
- For each plaintiff that is an Other Entity, one employee from each entity must sign.
- For each plaintiff that is a Partnership, only one of the partners from each partnership must sign.
- If there is a plaintiff that is a Public Entity, then one employee from that agency must sign.

[PREVIOUS](#)[NEXT](#)

This program is not intended as a substitute for a lawyer. We recommend that you seek legal advice by consulting with a lawyer.

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Instructions For Filing The Plaintiff's Claim Forms

Who Needs To Sign

In filing a small claims lawsuit, certain plaintiffs **MUST** sign the Plaintiff's Claim.

Below is a list of guidelines to help you determine which plaintiff(s) must sign the form.

- If there is only one plaintiff designated as an Individual, then he or she must sign.
- Each Individual plaintiff must sign. If the plaintiffs include a husband and wife, then only one needs to sign.
- For Minors, all minors and their guardian ad litem must sign.
- For each plaintiff that is an Association, one employee from each association must sign.
- For each plaintiff that is a Corporation, one employee from each corporation must sign.
- For each plaintiff that is an Other Entity, one employee from each entity must sign.
- For each plaintiff that is a Partnership, only one of the partners from each partnership must sign.
- If there is a plaintiff that is a Government Agency, then one employee from that agency must sign.

Filing Fee

If you have not filed more than 12 small claims lawsuits in the last 12 months and:

- Your filing claim is \$1,500 or less, the filing fee is \$30.00.
- Your filing claim is more than \$1,500, but less than or equal to \$5,000, the filing fee is \$50.00.
- Your filing claim is more than \$5,000, but less than or equal to \$7,500, the filing fee is \$75.00. (**Natural person only**)

If you have filed more than 12 small claims lawsuits (including this one) in the last 12 months, the filing fee is \$100.00

Fee Waiver – If you cannot afford to pay the filing fee you may request a waiver of fees. The fee waiver form is available at www.courtinfo.ca.gov – download the form, complete it, and include it with your small claims forms.

Attachments and Additional Forms

Guardian Ad Litem – If any of the plaintiffs is a minor, the clerk's office at the court will give you a form to ask the court to assign a guardian ad litem (someone who will file forms on behalf of the minor) for the minor.

Fictitious Business Name Declaration (SC-103) – Based on the type of plaintiff that you said you are (example, an Association), the program may have generated the Fictitious Business Name Declaration form (SC-103). If there is more than one plaintiff that may be a fictitious business, then the program generates a Declaration form for each one.

Attorney-Client Fee Dispute (SC-101) – If you indicated that your lawsuit is related to an attorney-client fee dispute, the program will generate this form for you. Please fill it out and take it to the Court with your other forms.

Proof of Service (SC-104) – Your server needs to complete this form (along with the SC-104A, SC-104B, SC-104C if applicable) only **AFTER** you have done the following:

- Filed your papers with the court, **AND**
- You have served the other party (see form SC-150 for information about serving the other party)

NOTE: You only need to fill out the SC-104 forms if you are serving the party by personal service only

Instructions For Filing The Plaintiff's Claim Forms

Additional Plaintiffs and Defendants (SC-100A) – If the program generates this form, you **MUST** print it and include it with your filing. If there are many plaintiffs and/or defendants, the program may generate several copies of this form to list all the people involved. Be sure to print all copies of this form.

Additional Defendants in the Military (MC-025) – If the program generates this form, you **MUST** print it and include it with your filing.

What To Do Next

Your County's Website – Local Forms & Other Requirements – **AFTER** you have printed all your forms, check the local court's website where you plan to file your paperwork. The "Court Info" link (located at the top right-hand corner) in this program will show you the court's website address. There you can see if that court requires any local forms or has other requirements specific to that court. If the court has more than one courthouse, check their website to see where you should go to file your papers.

Making Copies – Before filing, you should make a photocopy of all your forms and attachments.

Clerk stamps date here when form is filed.

Notice to the person being sued:

- You are the Defendant if your name is listed in ② on page 2 of this form. The person suing you is the Plaintiff, listed in ① on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Fill in court name and street address:
Superior Court of California, County of CONTRA COSTA
 640 Ygnacio Valley Road
 Walnut Creek, CA 94596
 Walnut Creek Courthouse

Clerk fills in case number and case name:
Case Number:
Case Name:
 John Smith
 vs.
 Bob Jones

Order to Go to Court

The people in ① and ② must go to court: (Clerk fills out section below.)

Trial Date	Date	Time	Department	Name and address of court if different from above
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

Date: _____ Clerk, by _____, Deputy

Instructions for the person suing:

- You are the Plaintiff. The person you are suing is the Defendant.
- Before you fill out this form, read Form SC-150, *Information for the Plaintiff (Small Claims)*, to know your rights. Get SC-150 at any courthouse or county law library, or go to: www.courtinfo.ca.gov/forms
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

<http://eztagoffice.org>

Case Number: _____

Plaintiff (list names): John Smith

1 The Plaintiff (the person, business, or public entity that is suing) is:

Name: John Smith Phone: (925) 838-2090

Street address: 3240 Stone Valley Road West Alamo CA 94507
Street City State Zip

Mailing address (if different): _____
Street City State Zip

If more than one Plaintiff, list next Plaintiff here:

Name: _____ Phone: (_____) _____

Street address: _____
Street City State Zip

Mailing address (if different): _____
Street City State Zip

Check here if more than 2 Plaintiffs and attach Form SC-100A.

Check here if either Plaintiff listed above is doing business under a fictitious name. If so, attach Form SC-103.

2 The Defendant (the person, business, or public entity being sued) is:

Name: Bob Jones Phone: (_____) _____

Street address: 2425 Danville Boulevard Alamo CA 94507
Street City State Zip

Mailing address (if different): _____
Street City State Zip

If more than one Defendant, list next Defendant here:

Name: _____ Phone: (_____) _____

Street address: _____
Street City State Zip

Mailing address (if different): _____
Street City State Zip

Check here if more than 2 Defendants and attach Form SC-100A.

Check here if any Defendant is on active military duty, and write his or her name here: _____

3 The Plaintiff claims the Defendant owes \$ 2,000.00 . (Explain below):

a. Why does the Defendant owe the Plaintiff money? Dues .

b. When did this happen? (Date): _____

If no specific date, give the time period: Date started: 01/01/2005 Through: 01/06/2005

c. How did you calculate the money owed to you? (Do not include court costs or fees for service.) Past due dues .

Check here if you need more space. Attach one sheet of paper or Form MC-031 and write "SC-100, Item 3" at the top.

http://ezregaffile.org/



Case Number: _____

Plaintiff (list names): John Smith

4 You must ask the Defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this? Yes No

If no, explain why not: _____

5 Why are you filing your claim at this courthouse?

This courthouse covers the area (check the one that applies):

- a. (1) Where the Defendant lives or does business. (2) Where the Plaintiff's property was damaged. (3) Where the Plaintiff was injured. (4) Where a contract (written or spoken) was made, signed, performed, or broken by the Defendant or where the Defendant lived or did business when the Defendant made the contract.
- b. Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)
- c. Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civil Code, § 1812.10.)
- d. Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civil Code, § 2984.4.)
- e. Other (specify): _____

6 List the zip code of the place checked in 5 above (if you know): _____

7 Is your claim about an attorney-client fee dispute? Yes No

If yes, and if you have had arbitration, fill out Form SC-101, attach it to this form, and check here:

8 Are you suing a public entity? Yes No

If yes, you must file a written claim with the entity first. A claim was filed on (date): _____

If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

9 Have you filed more than 12 other small claims within the last 12 months in California?

Yes No If yes, the filing fee for this case will be higher.

10 I understand that by filing a claim in small claims court:

- I have no right to appeal this claim and
- I cannot file, and have not filed, more than two small claims cases for more than \$2,500 in California during this calendar year.

I declare, under penalty of perjury under California State law, that the information above is true and correct.

Date: 01/13/06 John Smith
Plaintiff types or prints name here

▶ _____
Plaintiff signs here

Date: _____
Second Plaintiff types or prints name here

▶ _____
Second Plaintiff signs here



Requests for Accommodations

Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, Request for Accommodations by Persons With Disabilities and Order. (Civil Code, § 54.8.)

http://cds.gsafile.org/

Revised January 1, 2006

**Plaintiff's Claim and ORDER
to Go to Small Claims Court
(Small Claims)**

SC-100, Page 3 of 5



“Small claims court” is a special court where claims for \$5,000 or less are decided. A “natural person” (not a business or public entity) may claim up to \$7,500. The process is quick and cheap. The rules are simple and informal.

You are the Defendant—the person being sued. The person who is suing you is the Plaintiff.

Do I need a lawyer?

You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

How do I get ready for court?

You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and any evidence that supports your case. And read “Get Ready for Court” at: www.courtinfo.ca.gov/selfhelp/smallclaims/getready.htm

What if I need an accommodation?

If you have a disability or are hearing impaired, fill out Form MC-410, *Request for Accommodations*. Give the form to your court clerk or the ADA/Access Coordinator.

What if I don't speak English well?

Ask the clerk if the court can give you an interpreter for free. If not, bring someone—like an adult relative or friend—who can interpret for you in court. It is best if your interpreter is not a witness or listed in this case. Or ask the clerk for a list of interpreters. (Interpreters usually charge a fee.)

Where can I get the court forms I need?

Go to any courthouse or your county law library, or print forms at: www.courtinfo.ca.gov/forms

What happens at the trial?

The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

What if I lose the case?

If you lose, you can appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file Form SC-140, *Notice of Appeal*. You must file within 30 days after the judge's decision.
- If you were *not* at the trial, fill out and file Form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File Form SC-140.

For more information on appeals, see:

www.courtinfo.ca.gov/selfhelp/smallclaims/appeal.htm

Do I have options?

Yes. If you are being sued, you can:

- **Settle your case before the trial.** If you and the Plaintiff agree on how to settle the case, both of you must notify the court. Ask the Small Claims Advisor for help.
- **Prove this is the wrong court.** Send a letter to the court *before* your trial, explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done this.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To make sure the witnesses go to the trial, fill out Form SC-107, and the clerk will subpoena (order) them to go.
- **Sue the person who is suing you.** File Form SC-120, *Defendant's Claim*. There are strict filing deadlines you must follow.
- **Agree with the Plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case “default.”** If you don't settle and do not go to the trial (default), the judge may give the Plaintiff what he or she is asking for plus court costs. If this happens, the Plaintiff can legally take your money, wages, and property to pay the judgment.

What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial) *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county) *or*
- You need more time to get an interpreter. One postponement is allowed, and you will not have to pay a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out Form SC-110 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



Need help?

Your county's Small Claims Advisor can help for free.

Scott D. Reep

PO Box 911

Martinez, CA 94553

Or go to “County-Specific Court Information” at:
www.courtinfo.ca.gov/selfhelp/smallclaims

La "Corte de reclamos menores" es una corte especial donde se deciden casos por \$5,000 ó menos. Una "persona natural" (que no sea un negocio ni una entidad pública) puede reclamar hasta \$7,500. El proceso es rápido y barato. Las reglas son sencillas e informales.

Usted es el Demandado — la persona que se está demandando. La persona que lo está demandando es el Demandante.

¿Necesito un abogado?

Puede hablar con un abogado antes o después del caso. Pero *no puede* tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

¿Cómo me preparo para ir a la corte?

No tiene que presentar ningunos papeles antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos, y cualquier pruebas que apoyan su caso. Y lea "Prepárese para la corte" en:

www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/epararse.htm

¿Qué hago si necesito una adaptación?

Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, *Request for Accommodations*. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo bien inglés?

Pregúntele al secretario si la corte le puede dar un intérprete sin costo. Si no, lleve consigo a alguien— ya sea un pariente adulto o amigo— que pueda servirle de intérprete en la corte. O pide del secretario una lista de intérpretes. Es mejor que su intérprete no sea un testigo ni una persona que figure en este caso. (Los intérpretes en general cobran un honorario.)

¿Dónde puedo obtener los formularios de la corte que necesito?

Vaya a cualquier edificio de la corte, la biblioteca legal de su condado o imprima los formularios en:

www.courtinfo.ca.gov/forms

¿Qué pasa en el juicio?

El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

¿Qué pasa si pierdo el caso?

Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación*. Tiene que presentarlo dentro de 30 días después de la decisión del juez.
- Si *no* estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración* para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/apelar.htm

¿Tengo otras opciones?

Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en resolver el caso, ambos tienen que notificar a la corte. Pídale al Asesor de Reclamos Menores que lo ayude.
- **Probar que es la corte equivocada.** Envíe una carta a la corte *antes* del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Para asegurarse que los testigos vayan al juicio, llene el formulario SC-107, y el secretario emitirá una orden de comparecencia ordenándoles que se presenten.
- **Demandar a la persona que lo demandó.** Presente el formulario SC-120, *Reclamo del demandado*. Hay fechas límite estrictas que debe seguir.
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

¿Qué hago si necesito más tiempo?

Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio) o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado) o
- Necesita más tiempo para conseguir intérprete. (Se permite un solo aplazamiento sin tener que pagar cuota para aplazar el juicio).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-110 (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.



¿Necesita ayuda? El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

Scott D. Reep

PO Box 911

Martinez, CA 94553

O vea "Información por condado" en:

www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores

Clerk stamps date here when form is filed.

Use this form to serve a **person, business, or public entity**. To learn more about proof of service, read Form SC-104B, *What Is Proof of Service?* To learn more about how to serve a business or public entity, read Form SC-104C, *How to Serve a Business*.

To serve a **business**, you must serve **one** of the following people:

- Owner (for a sole proprietorship or a business, form unknown)
- Partner (for a partnership) or general partner (for a limited partnership)
- Any officer or general manager (corporation or association)
- Any person authorized for service by the business (corporation, association, general partnership, limited partnership)
- Any person authorized for service with the Secretary of State (corporation, association, limited-liability company (LLC), limited-liability partnership (LLP), limited partnership)

To serve a **public entity**, you must serve **one** of the following people:

- Clerk (of a city or county)
- Chief officer, director, or agent authorized to accept service (of a public entity, agency, commission, board, district, etc.)

① a. If you are serving a **person**, write the person's name below:

b. If you are serving a **business or public entity**, write the name of the business or entity, the person authorized for service, and that person's job title:

Business or Public Entity Name	Person Authorized for Service	Job Title
--------------------------------	-------------------------------	-----------

Fill in court name and street address:

Superior Court of California, County of
CONTRA COSTA

640 Ygnacio Valley Road
Walnut Creek, CA 94596
Walnut Creek Courthouse

Fill in case number and case name:

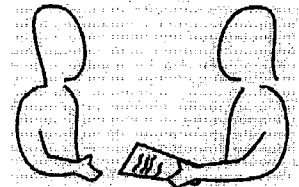
Case Number:

Case Name:
John Smith
vs.
Bob Jones

② **Instructions to Server**

You must be at least 18 years old and **not listed in this case**. You can use personal or substituted service. Follow these steps:

- a. If you are using personal service, give a copy of the documents checked in ③ to the person in ①.
- b. If you are using substituted service, give a copy of the documents checked in ③ to:
 - A competent adult (at least 18) at the home of and living with the person in ① *or*
 - An adult (at least 18) who seems to be in charge where the person usually works *or*
 - An adult (at least 18) who seems to be in charge at the place where the person receives mail or has a private mailbox (not a U.S. Postal Service P.O. Box), if there is no known physical address for the person in ①.
 - THEN mail a copy of the documents to the person in ① at the address where you left the documents.
- c. After serving the documents do the following:
 - Complete and sign this form *and*
 - Give or mail your completed form to the person who asked you to serve these court papers.



③ **I served the person in ① a copy of the documents checked below:**

- a. SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*
- b. SC-120, *Defendant's Claim and ORDER to Go to Small Claims Court*
- c. Order for Examination (*This form must be personally served. Put a check mark next to the form that was served*):

(1) SC-134, *Application and Order to Produce Statement of Assets and to Appear for Examination*

(2) AT-138/EJ-125, *Application and Order for Appearance and Examination*

Note: The court can issue a civil arrest warrant if the served party does not come to court but only if the Order for Examination was personally served by a registered process server, sheriff, marshal, or someone appointed by the court.

d. Other (*specify*): _____

http://ezforms.org



Case Number: _____

Case name: John Smith vs. Bob Jones

4 Fill out "a" or "b" below:

a. **Personal Service:** I personally gave copies of the documents checked in **3** to the person in **1** :

On (date): _____ At (time): _____ a.m. p.m.

At this address: _____

City: _____ State: _____ Zip: _____

b. **Substituted Service:** I personally gave copies of the documents checked in **3** (a, b, or d) to (check one):

A competent adult (at least 18) at the home of, and living with the person in, **1** or

An adult (at least 18) who seems to be in charge where the person in **1** usually works or

An adult (at least 18) who seems to be in charge where the person in **1** receives mail, or has a private mailbox (not a U.S. Postal Service P.O. Box), if there is no known physical address for the person in **1**.

I told that adult (check one):

"Please give these court papers to (name of person in **1**)"

Other (specify): _____

I did this on (date): _____ At (time): _____ a.m. p.m.

At this address: _____

City: _____ State: _____ Zip: _____

Name or description of the person I gave the papers to: _____

After serving the court papers (check one):

1. I put copies of the documents listed in **3** in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person in **1** at the address where I left the copies.

I mailed the envelope on (date): _____ from (city, state): _____ by leaving it at (check one):

a. At a U.S. Postal Service mail drop, or

b. At an office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service, or

2. I gave copies of the documents to someone else and asked that person to mail the documents to the person in **1**, and I have attached that person's completed Form SC-104A.

5 Server's Information

Name: _____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Fee for service: \$ _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

6 I declare, under penalty of perjury under California State law, that I am at least 18 years old and not listed in this case and that the information above is true and correct.

Date: _____

Type or print server's name

Server signs here after serving

http://csgafiles.org

SC-104A Proof of Mailing (Substituted Service)

Case Number: _____

- This form is attached to Form SC-104. Use this form ONLY if you mailed the documents in ① and someone else personally gave them to the person, business, or public entity served.

Notice to Server

You must:

- Be at least 18 and not listed in this lawsuit.
- Fill out ①–⑥ of this form and attach it to Form SC-104.

① Documents served by mail:

- a. SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*
- b. SC-120, *Defendant's Claim and ORDER to Go to Small Claims Court*
- c. Other (specify): _____

② Name and address of the person, business, or public entity served:

- a. If you served a **person**, write the person's name and address below:

Name: _____

Address: _____
Street City State Zip

- b. If you served a **business or public entity**, write the name and address of the business or public entity, the person authorized for service, and that person's job title:

Business or Public Entity Name Person Authorized for Service Job Title

Address: _____
Street City State Zip

- ### ③ I put copies of the documents listed in ① above in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person, business, or public entity listed in ② and mailed the envelope by leaving it at (check one):

- a. A U.S. Postal Service mail drop *or*
- b. An office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

- ### ④ I mailed the envelope:

a. On (date): _____ b. From (city, state): _____

- ### ⑤ My address is: _____

- ### ⑥ I declare, under penalty of perjury under California State law, that the information above is true and correct.

Date: _____

Type or print server's name

▶ _____
Server signs here after mailing

What is "service"?

"Service" or "serving" is when someone—not you or anyone else listed in this case—gives a copy of your court papers to the person, business, or public entity you are suing. Service lets the other party know:

- What you are asking for
- When and where the trial will be and
- What the party can choose to do

There are strict rules for serving court papers. This form explains how to serve these forms:

- Form SC-100, *Plaintiff's Claim*
- Form SC-120, *Defendant's Claim*

How is service done?

This form tells you how to serve by *personal service* or *substituted service*.

Personal service means someone gives the papers directly to the person being sued or to the agent authorized to accept service (business or public entity).

Substituted service means someone gives the papers to an adult where the person lives, works, or receives mail (including a private post office box, but not a U.S. Postal Service P.O. Box).

What if the court papers do get not served?

The judge cannot hear your case unless the court papers were served correctly.

Can the court serve the papers for me?

Yes. You can pay the court to mail your claim to the person you are suing. But if the person you are suing or the person's agent for service doesn't sign the U.S. Postal Service mail receipt with his or her complete name, or if someone else signs the receipt, you will have to serve again using personal or substituted service.

Who can serve?

You can ask a friend, a process server, or the Sheriff. The server must be at least 18 and not listed in the case.

A "process server" is someone you pay to deliver court forms. Look in the Yellow Pages under "Process Serving." The Sheriff (or Marshal if your county has one) can also deliver court forms. Ask the court clerk how to contact the Sheriff. Or look in the county section of your phone book under "Sheriff." You must pay the server, unless you qualify for a fee waiver.

How is *personal service* done?

Ask someone who is at least 18 and not listed in this case to personally "serve" (give) a copy of your court papers to the person or the agent authorized to accept court papers for the person, business, or public entity listed on Form SC-104.

Give the server a separate *Proof of Service* form for each person, business, or public entity you are suing. And tell the server to:

- Walk up to the person to be served.
- Say, "These are court papers."
- Give the person copies of all papers checked on Form SC-104, *Proof of Service*. If the person won't take the papers, just leave them near the person. It doesn't matter if the person tears them up.
- Fill out and sign page 2 of Form SC-104, *Proof of Service*.

How is *substituted service* done?

If you don't want to use personal service or can't find the person to be served, ask someone who is at least 18 and not listed in this case to serve the court papers.

Give the server a separate *Proof of Service* form for each person, business, or public entity you are suing. Tell the server to give the papers to:

- A competent adult (at least 18) at the home of and living with the person to be served *or*
- An adult who seems to be in charge where the person to be served usually works *or*
- An adult who seems to be in charge where the person receives mail (including a private mailbox, but **not** a U.S. Postal Service P.O. Box). *Note:* This is only for cases where the physical address of the person to be served is not known.

Then do the following:

- Write down that person's name and say, "Please give these court papers to [name of person to be served]." If the person does not want to give his or her name, describe the person you served.
- Give that person copies of all papers checked on Form SC-104, *Proof of Service*. If the person won't take the papers, just leave them near the person.
- Mail another copy of the papers (by first-class mail) to the person being sued at the same address where you left the papers.
- Fill out and sign page 2 of Form SC-104, *Proof of Service*.

What does the server do with the original Proof of Service form?

If a process server or Sheriff served the papers, he or she can file Form SC-104, *Proof of Service*, with the clerk. If the server used a different *Proof of Service* form, ask him or her to list each paper served on the form. Also make sure that the registered server will file the original directly with the court and will mail you a copy of the filed form. Take it with you when you go to court.

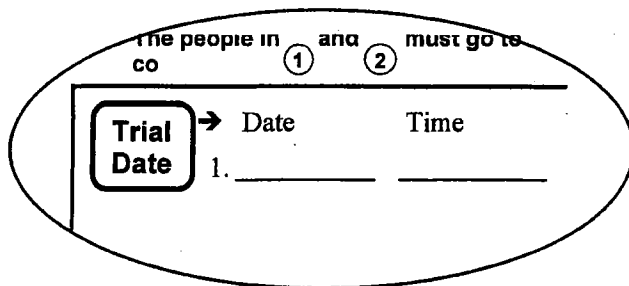
If a friend served the papers, tell him or her to give the completed form back to you. Keep a copy for your records and take the copy with you when you go to court.

You need to file the original completed *Proof of Service* form **5 days before** your trial.

When do the court forms have to be served?

- **If you are serving Form SC-100, Plaintiff's Claim,** look at the trial date on page 1. Then, look at a calendar.

For *personal* service, subtract 15 days from the trial date (or 20 days if the person, business, or public entity is located outside the county). That's the deadline for serving your small claims forms. But you can serve the forms before the deadline.



For *substituted* service, subtract 25 days from the date the server mailed a copy of the court papers served (or 30 days if the person, business, or public entity is located outside the county). That's the deadline for serving your small claims forms. But you can serve the forms before the deadline.

If the person, business, or public entity to be served is outside California or if you are serving a different form, ask the Small Claims Advisor for more information.

- **If you are serving Form SC-120, Defendant's Claim,** look at the trial date on page 1. Then look at a calendar.

For *personal* or *substituted* service, subtract 5 days from the trial date. That's the deadline for serving your small claims forms if you were served at least 11 days before the trial. If you were served 10 days or less before the trial date, you must serve at least 1 day before the trial. But you can serve the forms before the deadline.

What if I can't get the court papers served before the trial?

If you were not able to serve your claim (Form SC-100 or SC-120) before the deadline for service, talk to your Small Claims Clerk. Each county has its own rules.

If you already served your claim on some parties but not everyone you are suing, you may need to fill out and file Form SC-110, *Request to Postpone Small Claims Hearing*, at least 10 days before the trial date (or explain why you couldn't meet the 10-day deadline). Then give or mail a copy of this form to all other Plaintiffs and Defendants listed on your court papers.

The court may postpone your trial for 15 days or more.

Who do I have to serve?

If you are suing a person (or people)—not a business or public entity—serve each person you are suing. For example, if you were in a car accident and you are suing the owner and the driver of the car, you must list the names of the owner *and* the driver on your claim and serve both people.

Examples:

If the owner and driver are the same person:
Lee Smith, owner and driver

If the owner and driver are not the same person:
Lee Smith, owner and driver
Bob Smith, owner

If you are suing a business, an association, or a public entity, read Form SC-104C, *How to Serve a Business*.



Need help?

Your county's Small Claims Advisor can help for free.

Scott D. Reep
PO Box 911

Martinez, CA 94553

Or go to "County-Specific Court Information" at:
www.courtinfo.ca.gov/selfhelp/smallclaims

<http://azlegaffile.org/>

SC-104C

How to Serve a Business

To serve a business, an association, or a city, county, or public entity in small claims court, you must serve the *right* person and write the *exact* name of the business and the person to be served. Use this form to make sure you serve correctly, and follow the instructions on Form SC-104, *Proof of Service*.

	Sole Proprietorship (Only 1 owner)	Partnership	Landlord	City, County, or Public Entity	State of California or State Agency	Corporation or Association	Limited Liability Company (LLC), Limited Liability Partnership (LLP) or Limited Partnership (LP)	Unknown Business Type
Serve:	The owner.	If you are suing a partnership, serve one of the partners. If you are suing a partnership and the partners, serve each partner.	The property owner. <i>(If you can't find the owner, read Civil Code §§ 1962-1962.7 or talk to the Small Claims Advisor to see if you can serve the manager.)</i>	City or county clerk, chief officer or director of public entity, or agent authorized to accept service. <i>Note:</i> • Before you sue, you must first file a claim with the public entity. • You cannot sue a federal agency in small claims court.	Agent authorized to accept service	Agent for service listed with Secretary of State or any corporate officer (president, vice-president, secretary), chief executive officer (CEO), or general manager	Agent for service listed with Secretary of State To serve a limited partnership, you can also serve the general partner.	Someone who seems to be in charge of the business during normal business hours
Write on your Proof of Service form:	Business name, Owner's name, and job title	Partnership name Name of partner, general manager, or agent for service and job title	Business name (if there is one) Owner's name and job title	Name of city, county, or public entity Name of city clerk, county clerk, chief officer, or agent for service and job title	Name of the agency you are suing, name of agent for service	Corporation name Name of corporate officer or agent for service and job title	Company or partnership name Name of agent or partner for service and job title	Business name, form unknown Owner's name and job title <i>(if you know it)</i>
Check that you have the exact names of the owner and business with:	<ul style="list-style-type: none"> County Clerk—Recorder's Office (Ask to see the fictitious business name statement.) <i>Your county's Web site may have this information. Check www.cslc-counties.org</i> City Clerk's Office (Ask to see the business license. <i>Your county's Web site may have this information.</i>) 	County Tax Collector	County Tax Collector	Call the city or county clerk. (See the Government pages of your phone book.) California Secretary of State Web site: www.ss.ca.gov/executive Search under "California Roster."	California Attorney General's Office Call 1-800-952-5225	California Secretary of State Web site: www.ss.ca.gov/business Search under Corporation, LP and LLC. Or call: 916-657-5448 County Clerk—Recorder's Office (Ask to see the fictitious business name statement. <i>Your county's Web site may have this information.</i>) City Clerk's Office (Ask to see the business license). <i>Your city's Web site may have this information.</i>	California Secretary of State Web site: Search under Corporation, LP and LLC. Or call: 916-657-5448 County Clerk—Recorder's Office (Ask to see the fictitious business name statement. <i>Your county's Web site may have this information.</i>) City Clerk's Office (Ask to see the business license). <i>Your city's Web site may have this information.</i>	Try the other resources listed on this page to see if they know more about the business's organization type, such as corporation or sole proprietorship.



Need help?

Your county's Small Claims Advisor can help for free.

Scott D. Reep
PO Box 913

Martinez, CA 94553

Or go to "County-Specific Court Information" at:
www.courtinfo.ca.gov/selfhelp/smallclaims