

INSTRUCTIONS FOR FILING A SMALL CLAIMS PLAINTIFF'S CLAIM

BEFORE FILING:

ALL FORMS must be completed in full, dated, and signed by all plaintiffs. Please do not separate the Plaintiff's Claim and Order form (SC-100). Any claims exceeding \$10,000.00, the maximum amount allowable, will be rejected.

FILING FEE:

Filing claim for \$1,500 or less: \$30.00

Filing claim for more than \$1,500 but less or equal to \$5,000: \$50.00

Filing claim for more than \$5,000 but less or equal to 10,000 (natural persons only): \$75.00

If you have filed more than 12 claims in 12 months, the filing fee is \$100.00.

AFTER FILING:

The plaintiff's copy will be returned to you assigning a case number and a court date and time. Your case number will begin with the letters SC.

SERVICE TO DEFENDANT:

The defendant(s) must be served a copy of your completed claim against them. The court can attempt service of your claim by certified mail for the fee of \$15.00 per defendant. If you wish to attempt personal service, request from the clerk additional copies of the claim. The defendant copies contain information for the defendant about small claims court. **You must make your own arrangements for personal service.** For personal service, contact the sheriff or marshal's civil division in the county where the defendant resides for service and fee information. Personal service may also be conducted by any individual 18 years of age or older who is not a party to the claim or consult your local telephone directory for process servers.

For verification of service by certified mail, **call the court approximately two weeks after filing your claim.** Please refer to your case number so that your questions may be answered quickly.

Superior Court, Small Claims Divisions:

San Luis Obispo Branch..... (805) 781-5677

Paso Robles Branch.....(805) 237-3079

NOTE: If you do not call the court with your case number to inquire as to verification of service, you could make an **unnecessary appearance** on your court date. If you do call the court and determine that service by certified mail was unsuccessful, contact the small claims advisory to inquire about other service options available. The small claims advisory number is (805) 781-5856.

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 if you are a business or public entity or for more than \$10,000 if you are a natural person (including a sole proprietor). (See below for reference to exceptions.) 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 the limit. 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, an officer, or a director must act on its behalf. If the claim is filed on behalf of an association or another 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 another 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*, 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; or
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, at www.sos.ca.gov/business. 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.
3. With very limited exceptions, the defendant must be served within the state of California.

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.** You should read form SC-104B, *What is "Proof of Service"?*

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 serve papers 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 before 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.

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)

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.
5. **Timing and proof of service**—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 \$10,000 if the defendant is a natural person (see exceptions on page 1*). If the value of the claim is more than this amount, the defendant may either give up the amount over \$5,000 or \$10,000 and sue in the small claims court or sue in the appropriate court for the full value of the claim. If the defendant's claim relates to the same contract, transaction, matter, or event that is the subject of your claim and exceeds the value amount for small claims court, the defendant may file the claim in the appropriate court and file a motion to transfer your claim to that court to resolve both claims together.

The defendant's claim must be served on the plaintiff at least five 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 one 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, or you may ask the clerk 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 before 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 or SC-200):

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 is owed 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*. 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 lawyers.
2. **Interpreters**—If you do not speak English well, ask the court clerk as soon as possible if your court has a court-provided interpreter available and how to request one. A court-provided interpreter may not be available. Alternatively, you may bring an adult who is not a witness or an attorney to interpret for you or ask the court for a list of interpreters for hire.
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 Superior Court Fees and Costs* (form FW-001-INFO) 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, immediately ask the court to help accommodate your needs. If you are hearing impaired and need assistance, notify the court immediately.
7. **Forms**—You can get small claims forms and more information at the California Courts Self-Help Center website (www.courts.ca.gov/smallclaims), your county law library, or 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*):

<p>Small Claims Advisory Rm. 223 (805) 781-5856</p>

INFORMACIÓN PARA EL DEMANDANTE DE RECLAMOS MENORES

Esta hoja informativa está escrita para la persona que presenta una demanda en la corte de reclamos menores. Explica algunas de las reglas e información general sobre la corte de reclamos menores. También puede ser útil para la persona demandada.

¿QUÉ ES LA CORTE DE RECLAMOS MENORES?

La corte de reclamos menores es una corte especial en la cual se resuelven conflictos de manera rápida y a bajo costo. Las reglas son simples e informales. La persona que presenta la demanda es el demandante. La persona demandada es el demandado. En la corte de reclamos menores puede pedirle asesoramiento a un abogado antes de ir a la corte, pero no puede tener a un abogado en la corte. Su reclamo no puede ser mayor de \$5,000 si usted es una empresa o entidad pública, o mayor de \$10,000, si es una persona natural (o un propietario por cuenta propia). (*Vea una excepción a continuación*). Si tiene un reclamo por una cantidad o monto mayor, puede demandar en la división civil de la corte de primera instancia, o puede demandar en la corte de reclamos menores y renunciar a su derecho de reclamar cualquier monto superior al límite. Sin embargo, no puede presentar más de dos casos en la corte de reclamos menores por más de \$2,500 cada uno, por año calendario.

¿QUIÉN PUEDE PRESENTAR UN RECLAMO?

1. Para presentar un reclamo tiene que tener por lo menos **18 años de edad**. Si no tiene todavía 18 años de edad, avise al secretario. Le puede pedir a la corte que nombre a un tutor ad litem. Esta es una persona que actuará en su nombre en el caso. Un tutor ad litem es en general uno de sus padres, un pariente o amigo adulto.
2. La persona que presenta la demanda en la corte de reclamos menores tiene que hacer primero una demanda, en lo posible. Esto quiere decir que le pidió al demandado que pagara y éste se negó. Si su reclamo es por posesión de bienes, tiene que haberle pedido al demandado que le entregue el bien en cuestión.
3. A menos que cumpla con dos excepciones técnicas, usted tiene que ser el dueño original del reclamo. Esto quiere decir que si el reclamo es asignado, el comprador no puede hacer una demanda en la corte de reclamos menores.
4. Tiene que comparecer ante la corte de reclamos menores usted mismo, a menos que haya presentado el reclamo como una corporación u otra entidad que no es una persona física.
4. Si el reclamo es presentado por una corporación, tiene que hacerse presente un empleado, oficial o director de la misma. Si el reclamo se presenta en nombre de una asociación u otra entidad que no es una persona física, tiene que haber una persona empleada regularmente por la misma que actúe en su nombre. Una persona que comparece en nombre de una corporación u otra entidad no puede haber sido empleada o asociada con el único fin de representar a la corporación u otra entidad ante la corte de reclamos menores. Para comparecer en cualquiera de estos casos, tiene que presentar una declaración ante la corte. (*Ver Autorización para comparecer en nombre de una parte*, formulario SC-109.)

¿DÓNDE PUEDE PRESENTAR SU RECLAMO?

Tiene que presentar el reclamo en la corte y ubicación correcta. Esta regla se llama competencia: Consulte las reglas locales de la corte para averiguar si hay más de una corte en su condado que considera casos de reclamos menores.

Si presenta su reclamo ante la corte equivocada, será despedido, a menos que todos los demandados se hagan presentes en la audiencia y acepten considerar la demanda en ese momento.

La ubicación correcta puede ser cualquiera de las siguientes:

1. Donde vive el demandado o donde se encuentra su empresa;

2. Donde tuvo lugar el daño o accidente;
3. Donde se firmó o llevó a cabo un contrato;
4. Si el demandado es una corporación, donde se violó el contrato;
5. Para una cuenta minorista a plazos, contrato de venta o venta financiada de un vehículo motorizado:
 - a. Donde vive el comprador;
 - b. Donde vivía el comprador cuando firmó el contrato;
 - c. Donde firmó el contrato el comprador; o
 - d. Donde están guardados permanentemente los bienes o el vehículo.

ALGUNAS REGLAS ACERCA DEL DEMANDADO (incluyendo dependencias gubernamentales)

1. Tiene que presentar su demanda usando el **nombre legal exacto** del demandado. Si el demandado es una empresa o corporación no conoce su nombre legal exacto, consulte con la agencia de licenciamiento estatal o local, la oficina del secretario del condado o la oficina de la División de Corporaciones del Secretario de Estado en www.ss.ca.gov/business. Si no sabe cómo encontrar esta información, pregúntele al secretario. Si no conoce el nombre legal exacto del demandado, la corte puede a conocer el nombre que aparece en
2. Si quiere demandar a una dependencia gubernamental, primero tiene que presentar una demanda ante la agencia antes de poder hacer un juicio en la corte. Hay límites estrictos de tiempo. Si se encuentra en un establecimiento del Departamento Correccional o de la Autoridad Juvenil, tiene que demostrar que dicha dependencia rechazó su reclamo. Adjunte una copia del rechazo a su reclamo.

¿CÓMO SE ENTERARÁ EL DEMANDADO DE SU RECLAMO?

Tiene que asegurarse de que el demandado sepa de la demanda. Esto se tiene que hacer de acuerdo a las reglas, si no su caso puede ser despedido o demorado. La manera correcta de informarle al demandado sobre el juicio se llama entrega legal. Esto quiere decir darle al demandado una copia del reclamo. **NO PUEDE HACER LA ENTREGA LEGAL POR SÍ MISMO**. Hay cuatro maneras de hacerle la entrega legal al demandado:

1. Entrega legal a través de un agente de cumplimiento de la ley — Puede pedirle a la policía o al alguacil que le haga la entrega legal al demandado. Le cobrarán un honorario.
2. Profesional de entrega legal — Puede pedirle a cualquier persona que *no sea parte* del caso y que tenga por lo menos **18 años de edad** que le haga la entrega legal al demandado. Esta persona se llama profesional de entrega legal y tiene que entregarle una copia de su reclamo al demandado personalmente. La persona también tiene que firmar un formulario de prueba de entrega para demostrar que le hizo la entrega legal al

demandado. Los profesionales de entrega legal registrados le cobrarán un honorario por este servicio. También le puede pedir a un amigo o pariente que haga la entrega legal.

3. Correo certificado — Puede pedirle al secretario de la corte que le entregue el reclamo al demandado por correo certificado. El secretario le cobrará los costos. Debería verificar en la corte antes de la audiencia para ver si recibieron el recibo de correo certificado. La entrega legal por correo certificado tiene que ser realizada por la oficina del secretario, salvo en el caso de accidentes de vehículos motorizados, cuando por lo menos uno de los demandados reside fuera del estado.
4. Entrega legal sustituida — Este método le permite hacerle la entrega legal a otra persona en vez del demandado. Tiene que seguir los procedimientos al pie de la letra. Quizás le convenga contratar los servicios de la policía, el alguacil o un profesional de entrega legal registrado.

*Excepciones: Existen límites diferentes en casos contra demandados que son garantes. (Vea Código de Proc. Civil § 116.220(c). En el caso de un demandante (persona natural) por daños o lesiones personales sufridas durante un accidente automovilístico, existe un límite de \$7,500 si el demandado está bajo póliza de seguro de automóvil que incluya una obligación de asumir defensa. (Vea Cod. de Proc. Civil § 116.221) Página 1 de 2

4. Entrega legal sustituida (continuación)

Se debe entregar una copia de su reclamo

— a la persona a cargo en el lugar de trabajo del demandado;

O

— a una persona competente de por lo menos 18 años de edad que se encuentre en la casa del demandado. Se le debe decir a la persona que recibe el reclamo de qué se trata. Hay que enviar además otra copia por correo de primera clase con porte pagado al demandado, a la misma dirección donde se dejó el reclamo. La entrega legal no se habrá completado hasta 10 días después de haberse enviado la copia por correo.

Independientemente del método de entrega legal que elija, le debe hacer la entrega legal al demandado para una cierta fecha o el juicio se postergará. Si el demandado vive en el condado, la entrega legal se tiene que completar por lo menos 15 días antes de la fecha del juicio. Si el demandado vive fuera del condado, el periodo se extiende a 20 días.

La persona que le hace la entrega legal al demandado tiene que firmar un formulario de la corte para demostrar que le hizo la entrega al demandado. Este formulario se llama *Prueba de entrega* (formulario SC-104). Tiene que firmarse y presentarse ante el secretario de la corte apenas se complete la entrega legal.

¿QUÉ PASA SI EL DEMANDADO TAMBIÉN TIENE UN RECLAMO QUE HACER?

A veces la persona demandada (el demandado) también tendrá un reclamo contra la persona que presentó la demanda (el demandante). Este reclamo se llama *Reclamo del demandante*. El demandado puede presentar este reclamo en el mismo juicio. Esto ayuda a resolver todos los desacuerdos entre las partes al mismo tiempo.

Si el demandado decide presentar su reclamo ante la corte de reclamos menores, éste no puede ser mayor de \$5,000 o \$10,000, si el demandado es una persona natural (*vea el reverso*). Si el valor del reclamo supera este monto, el demandado puede renunciar a cualquier monto que exceda \$5,000 o \$10,000 y hacer el juicio en la corte de reclamos menores, o presentar una solicitud para transferir el caso a otra corte apropiada que pueda considerar casos por el valor total del reclamo.

Se debe hacer la entrega legal al demandante del reclamo del demandado por lo menos 5 días antes del juicio. Si el demandado recibió el reclamo del demandante 10 días o menos antes del juicio, entonces la entrega legal de su reclamo se tiene que hacer por lo menos 1 día antes del juicio. La corte considerará ambos reclamos al mismo tiempo.

¿QUÉ PASA EN EL JUICIO?

Preséntese a tiempo en el juicio. La corte de reclamos menores es informal. Tiene que traer consigo a todos los testigos, libros, recibos y otros documentos o cosas necesarias para probar su caso. Le puede pedir a los testigos que vayan a la corte voluntariamente. También le puede pedir al secretario de la corte que emita una orden de comparecencia. Una orden de comparecencia es una orden de la corte que obliga a un testigo a presentarse en el juicio. El testigo tiene el derecho de cobrar un honorario para ir al juicio. Si no tiene los comprobantes o documentos para probar su caso, también puede obtener una orden de la corte, antes del juicio, para que se presenten los documentos necesarios durante el juicio. Esta orden se llama *Orden de comparecencia y declaración de reclamos menores* (formulario SC-107).

Si llega a un acuerdo en el caso antes del juicio, tiene que presentar un formulario de despido ante el secretario.

La decisión de la corte en general se enviará por correo a ambas partes después del juicio. También es posible que se la entreguen en persona cuando se acabe el juicio y después de que el juez haya tomado una decisión. La decisión aparecerá en un formulario llamado *Aviso de publicación de fallo* (formulario SC-130 o SC-200).

¿QUÉ PASA DESPUÉS DEL FALLO?

La corte puede ordenar a una parte que le pague dinero a la otra parte. La parte que gana el caso y cobra el dinero se llama acreedor del fallo. La parte que pierde el caso y debe el dinero se llama deudor del fallo. El cumplimiento del fallo se posterga hasta que haya pasado el plazo para apelar o hasta que se decida la apelación. Esto quiere decir que el acreedor del fallo no podrá cobrar ningún dinero ni tomar ninguna medida hasta que este plazo haya vencido. Generalmente ambas partes podrán ser representadas por un abogado después del fallo. Puede obtener más información sobre sus derechos después del fallo en el reverso del formulario *Aviso de publicación de fallo*. Es posible que el secretario también tenga esta información en una hoja separada.

CÓMO OBTENER AYUDA CON SU CASO

1. Abogados — Ambas partes pueden consultar con un abogado sobre el caso, pero ninguna de las partes puede ser representada por un abogado en el juicio de reclamos menores. Generalmente, ambas partes podrán ser representadas por un abogado después del fallo y durante la apelación.
2. Intérpretes — Si no habla bien el inglés, lleve consigo a un adulto que no sea uno de sus testigos para que le sirva de intérprete, o pídale un intérprete al secretario de la corte por lo menos cinco días antes de la fecha de su juicio. Es posible que no haya intérprete de la corte disponible o que tenga que pagar una cuota para usar un intérprete, a menos que sea elegible para una exención de cuotas. Puede pedir a la corte una lista de intérpretes y también una *Solicitud de exención de cuotas y costos de la corte* (formulario FW-001).
3. Exención de cuotas — La corte cobra costos para algunas de sus actuaciones. También se cobran costos para hacer la entrega legal del reclamo al demandado. La corte lo puede eximir del pago de costos si no tiene dinero para pagarlos. Pídale al secretario la *Hoja informativa sobre la exención de cuotas y costos de la corte* (formulario FW-001-INFO) para averiguar cuáles son los requisitos para no tener que pagar las cuotas.
4. Corte nocturna y los sábados — Si no puede ir a la corte durante el horario de trabajo, pregúntele al secretario si la corte programa juicios de noche o los sábados.
5. Partes que están en la cárcel — Si está en la cárcel, la corte le puede dar permiso para no comparecer al juicio. En su lugar, puede pedirle a otra persona, que no sea su abogado, que comparezca al juicio en su nombre. Puede enviar declaraciones escritas a la corte para respaldar su caso.
6. Modificaciones (Discapacitados) — Si tiene una discapacidad y necesita ayuda, pídala inmediatamente a la corte que considere sus necesidades. Si tiene impedimentos de audición y necesita ayuda, notifique a la corte inmediatamente.
7. Formularios — Puede obtener los formularios de reclamos menores y más información en el sitio web del Centro de Ayuda de las Cortes de California (www.courts.ca.gov) en la biblioteca legal de su condado o en la corte que le quede más cerca.
8. Asesores de Reclamos Menores — La ley exige a cada condado que brinde ayuda gratuita sobre casos de reclamos menores. (*Información sobre el Asesor de Reclamos Menores*):

HOW TO LIST DEFENDANT NAMES & JURISDICTIONAL LIMITS IN SMALL CLAIMS COURT

LISTING DEFENDANTS & JURISDICTIONAL LIMITS

INDIVIDUALS

John Smith
500 Luis Lane
San Luis Obispo, CA 93401

When suing a business, you must first determine how the business is held. Is it a corporation, sole proprietorship, Limited Liability Company? Check with local and state agencies such as the County Clerk-Recorder, city business license office, California Secretary of State, etc. When listing the business as a defendant, always indicate how the business is conducting itself: Speedy's Car Wash Inc. or Speedy's Car Wash LLC, Or Speedy's Car Wash LP.; and any fictitious business name it may use. Here are some examples of how to name and serve a business.

SOLE PROPRIETORSHIP

John Smith dba Smith's Auto Repair
1234 Main Street
San Luis Obispo, CA 93401

GENERAL PARTNERSHIP

John Smith and Tom Jones
dba Mel's Diner, a general partnership
1555 El Camino Real
Atascadero, CA 93422

The "dba" stands for "doing business as"

LIMITED PARTNERSHIP (LP)

Limited partnerships (LP) usually consist of one or a few general partners and any number of limited partners or investors who may not be subject to being sued. You should name the LP and the general partners. (See Nolo Press Everybody's Guide to Small Claims Court in California, 18 Edition, or consult with an attorney for more information) LPs must register with the California Secretary of State and information is available at www.sos.ca.gov concerning limited partnerships, limited liability companies, and corporations and these entities' agents for service of process. Click on "Business Entities"

CORPORATION (INC) & LIMITED LIABILITY COMPANY (LLC)

When suing an entity like a corporation, you must list a person or representative of the corporation to be served. That person is either an officer (president, vice-president, secretary, treasurer) or general manager, or the corporation's agent for service of process. The agent for service may be an officer, an employee, an attorney, or another corporation or business entity designated to accept service in a lawsuit. Verification of the agent for service should be brought to court the day of the trial and can be determined by visiting the California Secretary of State website at www.sos.ca.gov Click on "Business Entities, & Business Search" Personal service is usually required. At your trial, the judge may ask you to prove that the correct agent was served so take your sos. printout to court with you.

ABC Inc.
c/o Tom Poe, President
1285 Main Street
Los Angeles, CA 90016

ABC Inc.
c/o Susan Black, agent for service
1250 California Blvd Suite 100
Los Angeles, CA 90016

ABC Inc.
c/o CT Corporation System, agent for service
818 W. Seventh St
Los Angeles, CA 90017

(Using an officer)

(Using agent for service)

(Using agent for service which is a corporation)

CORPORATION USING A FICTITIOUS BUSINESS NAME

ABC Inc. dba Speedy Movers
c/o Michael James, agent for service
5555 Ridgeway Drive
Los Angeles, CA 90012

ASSOCIATIONS

ABC Road Association c/o: John Smith, President (or secretary, manager etc.)
1234 Bumpy Road Lane
Paso San Luis, CA 93333

HOW TO LIST DEFENDANT NAMES & JURISDICTIONAL LIMITS IN SMALL CLAIMS COURT

Associations Definition: A nonprofit corporation or unincorporated association created for the purpose of managing a common interest development. An Incorporated association such as a HOA or Home Owners Association. Both may sue and be sued in small claims court. Again if you or the other party is a corporation read the above section on listing corporations Note: California Civil Code 1367 et seq. requires notices to be given to homeowners of rights to a hearing before board and ADR (Alternative Dispute Resolution) This must be done before suit is commenced if you are suing the homeowner and you are an Association.

AUTO ACCIDENTS

Special rules apply in claims involving auto, motorcycle, truck or RV accidents. You should name both the driver and the registered owner as defendants. This is because the vehicle's owner may be liable. This information can be found in the police accident report or contact the DMV, provide the vehicle plate number and tell them you want to find out who owns the vehicle and their name and address, for purposes of filing and serving a lawsuit based on a motor vehicle accident.

GOVERNMENT AGENCIES

Before you can sue a city, state or county you must first file a claim with that entity and have it denied. To do this get a claim form from that agency and make sure it is filed within the time limits allowed. If your claim is denied, you can then proceed to file in small claims court within six months. Govt Code §§945.6 (For more details on filing a claim against a city, county or special district, see Govt Code §§900.)

CONTRACTORS & THEIR BONDING COMPANIES

When suing a licensed contractor relating to work done improperly you'll normally find that the business is bonded by a surety or guaranty company. This means that in addition to suing the contractor (who may have gone belly up), you can also sue and collect a judgment from the bonding company, based on the contractor's poor workmanship or failure to abide by the agreement. To do this you must name the bonding company as part of your lawsuit and succeed in serving your papers on it. List both contractor and bonding company as separate defendants. You can find out the name and address of a licensed contractor's bonding company from the California Contractors State License Board at www.cslb.ca.gov

DECEASED PERSONS ESTATE

(Read Nolo Press -Everybody's Guide to Small Claims Court 18 edition)

JURISDICTIONAL LIMITS ON SMALL CLAIMS COURT

The California Small Claims court jurisdictional limit has been raised to \$10,000.00 for natural persons which include; (Individuals or sole proprietors (john smith dba smith automotive) Businesses and government entities are still limited to \$5000. (Corporations, Limited Liability companies, Limited Partnerships, Partnerships, Associations, Non-Profits) Exceptions below:

- § If you are filing a claim for bodily injuries as a result of a car accident, against a person who has car insurance that includes a "duty to defend," you can only sue that person for \$7500.
- § Also, as a natural person, you can only sue a guarantor for up to \$6500. (\$2500 if they do not charge for the guarantee). A "guarantor" is a person or company that promises to be responsible for what another person owes. (If you are an entity other than a natural person and the guarantor charges for its services, you may file a claim for up to \$4000.)
- § But, you can sue the Registrar of the Contractors (the executive officer of the Contractors State License Board) as a guarantor for up to \$10,000.

VISIT www.courts.ca.gov/selfhelp
FOR MORE INFORMATION ON SMALL CLAIMS COURT,
FORMS, RESOURCE MATERIALS AND FREQUENTLY ASKED QUESTIONS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO - MEDIATION SERVICES -

As a party involved in a litigated dispute at the Superior Court of California, County of San Luis Obispo, it is important that you are aware of the option to use mediation to help you settle your case.

About Mediation

Mediation is an informal, flexible process that enables each party to identify and pursue their own interests. With the assistance of a qualified mediator, parties keep themselves at the center of the decision-making process and have power over the outcome. Additional benefits of mediation include:

- ***It's Free.*** There is no cost for mediation for Small Claims cases filed in San Luis Obispo County Courts.
- ***It's Convenient.*** Mediation can happen prior to the court date and if agreement is reached, parties may not even have to attend court. Or you can mediate at court on the day of trial.
- ***It's Private.*** Everything disclosed during mediation is confidential unless the parties agree otherwise. Parties cannot use mediation for fact-finding, which allows for good-faith discussions.
- ***It's Fair.*** The mediator does not take sides or tell you what to do. If a settlement offer seems unfair, you can negotiate or just say "no."
- ***It's Smart.*** Mediation works. It saves time and money and it is usually a lot less stressful. Mediation gives you the power to decide the outcome of your case. And if your mediation doesn't end in agreement, you can still take the case to court for a judge to decide.

How to Get Mediation

Mediation is a free or low-cost option for many types of cases including Small Claims, Unlawful Detainer, Civil Harassment, and even cases that have not yet been filed with the court. The best way to decide if mediation is right for you is to speak with a mediator. If you would like more information about mediation, please contact the mediation services agency directly by phone:

(805) 549-0442

Or via email:

info@creativemediation.net

Or the website:

www.creativemediation.net

We look forward to your call and to helping *you* determine if mediation services will benefit you in your situation.

San Luis Obispo County Small Claims Court Advisory

District Attorney Economic Crime Unit
County Courthouse Annex
1050 Monterey Street, Room 223
San Luis Obispo CA 93408
(805) 781-5856 option 3

Court Hours 8:30am-4pm
SLO Court :805-781-5677
Paso Court:805-237-3079



Advisory Hours: M-F 9am-12pm
Telephone Assistance & Walk-ins Only-No appointments

There is no charge for using the advisory. The Small Claims Advisor is **not** an attorney and cannot give you legal advice. The advisor works for the District Attorney not the court and has no access to your case.

Forms

- ⇒ Direct you to the proper forms
- ⇒ Help you understand & complete the forms
- ⇒ Forms are available online at www.courts.ca.gov/selfhelp and at all branches of the Superior Court (SLO and Paso)
- ⇒ The Court no longer requires you to type forms



Terminology

- ◇ abstract of judgment
- ◇ motion to vacate
- ◇ venue
- ◇ default case
- ◇ statute of limitations
- ◇ trial de novo (appeal)
- ◇ writs
- ◇ OSC Hearing

The advisor can help explain the legal terminology and jargon of the small claims court. Knowing the terms and language of the court should make the process of filing a lawsuit a little less intimidating and allow you to understand and use the small claims court more effectively.

Service of Court Documents

How much time do I need to serve in county vs out of county defendants? Can I do the service? The defendant refused the certified mail service. Do I need a proof of service for each defendant? What do I do with proof of service? You don't know where the defendant lives.



The advisory can answer these questions and direct you to:

- ⇒ Resources and public information to locate defendants
- ⇒ Explain service requirements & different service options
- ⇒ Visit the California Secretary of State website at www.sos.ca.gov to locate the person to serve or the agent for service of a corporation or other business entity

Procedures

How do I request a postponement? What do I do if I missed my court date? How do I file a claim against the plaintiff? Can I appeal? I was ordered to appear for an OSC hearing- What is that?

The advisor can provide the answers to these questions and explain the court's procedures.

Collections

You've won your small claims case! The defendant has to pay you, right? Winning your small claims case is only the beginning. You are responsible for enforcing your small claims judgment. If the defendant does not pay-you will need to identify collection strategies and the appropriate forms to enforce your judgment.

Resources

The California Court's website was designed to assist self-represented litigants like you in explaining each step in the small claims court process. Visit their website below for forms and helpful information about the small claims court. If you know the form number you can use www.courts.ca.gov/forms

For Legal Self-Help: www.courts.ca.gov/selfhelp

Plaintiff's Claim and ORDER to Go to Small Claims Court

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 San Luis Obispo
 901 Park Street
 Paso Robles, CA 93446
 1035 Palm Street, Room 385
 San Luis Obispo, CA 93408

Court fills in case number when form is filed.

Case Number: _____

Case Name: _____

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-100-INFO, *Information for the Plaintiff*, to know your rights. Get SC-100-INFO at any courthouse or county law library, or go to www.courts.ca.gov/smallclaims/forms.
- Fill out pages 2 and 3 of this form. Then make copies of all pages of this form. (Make one 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 five 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.



Plaintiff (list names):

Case Number: _____

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

Name: _____ Phone: _____

Street address: _____

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 two 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.
Check here if any plaintiff is a "licensee" or "deferred deposit originator" (payday lender) under Financial Code sections 23000 et seq.

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

Name: _____ Phone: _____

Street address: _____

Street City State Zip

Mailing address (if different): _____

Street City State Zip

If the defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process here:

Name: _____ Job title, if known: _____

Address: _____

Street City State Zip

- Check here if your case is against more than one defendant, 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 \$ _____. (Explain below):

a. Why does the defendant owe the plaintiff money?

When did this happen? (Date): _____

b. If no specific date, give the time period: Date started: _____ Through: _____

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

- 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.

Plaintiff (list names):

Case Number:

- 4 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. If your claim is for possession of property, you must ask the defendant to give you the property. 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). (Civ 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. (Civ 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 Is your claim for more than \$2,500? Yes No
 If yes, I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.

- 11 I understand that by filing a claim in small claims court, I have no right to appeal this claim.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: _____ 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 five days before the trial. Contact the clerk's office for form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civ Code, § 54.8.)



"Small claims court" is a special court where claims for \$10,000 or less are decided. Individuals, including "natural persons" and sole proprietors, may claim up to \$10,000. Corporations, partnerships, public entities, and other businesses are limited to claims of \$5,000. (See below for exceptions.)* 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 evidence that supports your case. And read "Be Prepared for Your Trial" at www.courts.ca.gov/smallclaims/prepare.

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 court clerk as soon as possible if your court has a court-provided interpreter available and how to request one. A court-provided interpreter may not be available. Alternatively, you may bring an adult who is not a witness or an attorney to interpret for you or ask the court for a list of interpreters for hire.

Where can I get the court forms I need? Go to any courthouse or your county law library, or print forms at www.courts.ca.gov/smallclaims/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 may 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 clerk hands or mails you the judge's decision (judgment) on form SC-200 or form SC-130, *Notice of Entry of Judgment*.
- 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.courts.ca.gov/smallclaims/appeals.

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, the plaintiff must file form CIV-110, *Request for Dismissal*, with the clerk. 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 *save (give)* a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done so.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To have the court order a witness to go to the trial, fill out form SC-107 (*Small Claims Subpoena*) and have it served on the witness.
- **Sue the person who is suing you.** If you have a claim against the plaintiff, and the claim is appropriate for small claims court as described on this form, you may file *Defendant's Claim* (form SC-120) and bring the claim in this action. If your claim is for more than allowed in small claims court, you may still file it in small claims court if you give up the amount over the small claims value amount, or you may file a claim for the full value of the claim in the appropriate court. If your claim is for more than allowed in small claims court and relates to the same contract, transaction, matter, or event that is the subject of the plaintiff's claim, you may file your claim in the appropriate court and file a motion to transfer the plaintiff's claim to that court to resolve both matters together. You can see a description of the amounts allowed in the paragraph above titled "Small Claims Court."
- **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-150 (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.

Small Claims Advisor
Rm. 223 (805) 781-5656

Or go to www.courts.ca.gov/smallclaims/advisor.

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.22(c).)

La "Corte de reclamos menores" es una corte especial donde se deciden casos por \$10,000 o menos. Los individuos, o sea las "personas físicas" y los propietarios por cuenta propia, pueden reclamar hasta \$10,000. Las corporaciones, asociaciones, entidades públicas y otras empresas solo pueden reclamar hasta \$5,000. (Vea abajo para las excepciones.) 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 pruebas que apoyan su caso. Y lea "Esté preparado para su juicio" en www.courts.ca.gov/reclamosmenores/preparesse.

¿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 de la corte lo más pronto posible si en el juzgado habrá un intérprete disponible y cómo solicitarlo. No siempre están disponibles los intérpretes de la corte. Otra opción es llevar a un adulto que pueda interpretar para usted siempre que esa persona no sea un testigo ni un abogado. O puede pedir a la corte una lista de intérpretes particulares disponibles para contratar.

¿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.courts.ca.gov/smallclaims/forms (página está en inglés).

¿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* (Notice of Appeal). Tiene que presentarlo dentro de 30 días después de que el secretario le entregue o envíe la decisión (fallo) del juez en el formulario SC-200 o SC-130, *Aviso de publicación del fallo* (Notice of Entry of Judgment).
- 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.courts.ca.gov/reclamosmenores/apelaciones.

¿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 cómo resolver el caso, el Demandante tiene que presentar el formulario CIV-110, *Solicitud de desestimación* (Request for Dismissal) ante el secretario de 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. Si desea que la corte emita una orden de comparecencia para que los testigos vayan al juicio, llene el formulario SC-107, *Cita de reclamos menores* (Small Claims Subpoena) y entrégueselo legalmente al testigo.
- Demandar a la persona que lo demandó. Si tiene un reclamo contra el Demandante, y el reclamo se puede presentar en la corte de reclamos menores, tal como se describe en este formulario, puede presentar el formulario SC-120, *Reclamo del demandado* (Defendant's Claim) y presentarlo en este mismo caso. Si su reclamo excede el límite permitido en la corte de reclamos menores, puede igualmente presentarlo en la corte de reclamos menores si está dispuesto a limitar su reclamo al máximo permitido, o puede presentar un reclamo por el monto total en la corte apropiada. Si su reclamo excede el límite permitido en la corte de reclamos menores y está relacionado con el mismo contrato, transacción, asunto o acontecimiento que el reclamo del Demandante, puede presentar su reclamo en la corte apropiada y presentar una moción para transferir el reclamo del Demandante a dicha corte, para poder resolver los dos reclamos juntos. Puede ver una descripción de los montos permitidos en el párrafo anterior titulado "Corte de reclamos menores".
- 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 (o 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-150 (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. Añunte 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.

Small Claims Advisory
Rm. 223 (805) 781-5856

O visite www.courts.ca.gov/reclamosmenores/asesores.

* Excepciones: Existen diferentes límites en un reclamo contra un garante. (Vea el Código de Procedimiento Civil, sección 116.220 (c).)

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 not get 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.

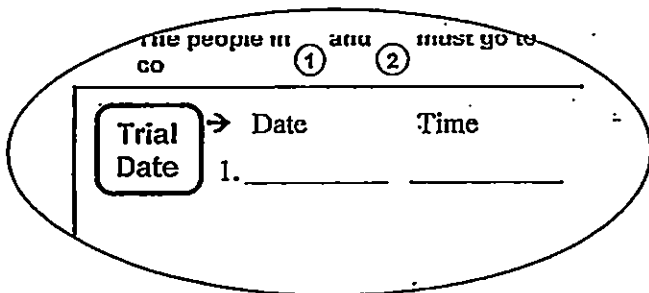
If a friend served the papers, tell him or her to give the completed form back to you. Keep a copy for your records and take the copy with you when you go to court.

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-150, *Request to Postpone Trial*, 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.

Small Claims Advisory
Rm. 223 (805) 781-5856

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

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

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

- Owner (for a sole proprietorship)
- 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 first file a claim with that entity, then serve one of the following people:

- Clerk (of a city or county)
- Chief officer or director (of a public agency)
- Any person authorized for service by the entity

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

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

Business or Agency Name

Person Authorized for Service

Job Title

② **Instructions to Server:**

You must be at least 18 years old and not be named in this case. Follow these steps:

- Give a copy of all the documents checked in ③ to the person in ①, or
 - Give a copy of all the documents checked in ③ to one of the following people:
 - a. A competent adult (at least 18) living with, and at the home of the person in ①, or
 - b. An adult (at least 18) who seems to be in charge at the usual workplace of the person in ①, or
 - c. An adult (at least 18) who seems to be in charge where the person in ① usually receives mail (but not a U.S. Post Office box), if there is no known physical address for the person in ①.
- and mail a copy of the documents left with one of the adults in a, b, or c above to the person in ①.

THEN

- Complete and sign this form, and
- Give or mail your completed form to the person who asked you to serve these court papers, *in time for the form to be filed with the court at least 5 days before the hearing.*

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. Check the form that was served*):

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

(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*

d. Other (*specify*): _____

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number, case name, hearing date, day, time, and department below.

Case Number:

Case Name:

Hearing Date:

Time:

Dept:



Case Number:

Case name: _____

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 who seems to be in charge where the person in 1 usually works, or

An adult who seems to be in charge where the person in 1 usually receives mail, or has a private post office box (not a U.S. Post Office box), if there is no known physical address for the person in 1.

I told that adult, "Please give these court papers to (name of person in 1)."

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, 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 (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

c. With someone else I asked 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 named in this case and that the information above is true and correct.

Date: _____

Type or print server's name

Server signs here after serving