



## PREVENTIVE LAW SERIES

# SMALL CLAIMS COURT



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When most people think of going to court to resolve a dispute, they think of lawyers, paperwork, and high costs. Small Claims Court offers a forum in which a person can affordably and quickly have a dispute resolved without having to contact a lawyer. The rules of Small Claims Court are not complicated and the hearing is held in a very informal manner.

### JURISDICTION & STATUTES OF LIMITATIONS: CAN YOU FILE IN SMALL CLAIMS COURT?

There are a few requirements for getting into a California small claims court:

1. The individual's claim must be \$10,000 or less, or if related to an automobile accident, \$7,500 or less. Further, you cannot file more than two \$2,500 claims in a California small claims court in a calendar year.
2. Generally, the claim must be filed in the proper county [i.e. where the dispute took place, where the defendant (the person you are suing) lives, where the firm does business or where the accident occurred].
3. Statutes of limitations (laws which prohibit cases if the complaint is not filed within a certain period of time) apply in Small Claims Court. Any inaction or delay on your part in filing with the court may affect your rights. You should consult with a Legal Assistance Attorney or small claims advisor immediately to find out how much time you have to file a lawsuit.

### FILING: HOW DO YOU GET YOUR CASE INTO SMALL CLAIMS COURT?

1. You, the plaintiff, must first demand money from the defendant. The best method of demand is by letter. You should write a letter to the defendant demanding a specific amount and briefly set forth the reasons for your demand. Keep a copy of the letter for yourself and send the letter certified mail/return receipt requested. You will use the copy and the return receipt to prove to the judge that you have first demanded the money.
2. If the defendant does not make payment or if you cannot reach an agreeable settlement, you must file a complaint. You can get a PLAINTIFF'S CLAIM AND ORDER TO DEFENDANT form from the Small Claims Court Clerk. The one-page form is self-explanatory and is relatively easy to complete. However, **you will need a valid name and address for each defendant.**
3. Complete the form and file it with the clerk. The filing fee is \$30.00 for claims up to \$1,500.00; \$50.00 for claims greater than \$1,500.00 up to \$5,000.00; and \$75.00 for claims greater than \$5,000.00 up to \$10,000.00. Service of process requires an additional fee, payable to the server.
4. The defendant must be legally notified of your claim. This notification is called "service of process." There are three methods of service of process: a) Service by certified mail by the Clerk of the Court; b) personal service by someone **other than the plaintiff**; and c) substituted service. The technicalities of this step are explained in the forms and by the clerk and/or Small Claims Court advisor.
5. If the defendant lives in the county where you filed, you will likely receive a hearing within forty (40) days of filing the complaint. If the defendant lives outside the county where you filed, you will likely receive a hearing within forty (40) to seventy (70) days of filing the complaint.

WARNING: PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND NOT INTENDED TO BE TAKEN AS SPECIFIC LEGAL ADVICE. FOR LEGAL ADVICE IN A PARTICULAR SITUATION, ALWAYS CONSULT WITH AN ATTORNEY.

## **SPECIAL PROVISIONS FOR SERVICE MEMBERS**

A member of the armed forces on active duty who has been assigned to a duty station outside of California after his or her cause of action has accrued (except when the assignment is for a definite period of less than six months) is entitled to waive personal appearance and submit written declarations to serve as evidence supporting the party's claim or to allow another person (NOT an attorney) to appear and participate on his or her behalf. For this, there are some forms and other requirements, which the small claims advisors can explain.

## **THE HEARING**

As this is a court of law, Small Claims Court is designed to resolve conflict in a legal and fair manner. This is your chance to convince the judge why you should prevail in your claim. Attorneys are prohibited from representing other persons at the hearing; but court may assign an advisor at no charge to you.

Bring all relevant documents to support your case. These documents would include your demand letter to the defendant, a contract, bills, cancelled checks, and estimates. Originals are preferred. You may also bring witnesses on your behalf. If a witness refuses to appear, it is possible to "subpoena" (i.e. order) a witness to appear. The clerk and/or advisor will tell you how to subpoena a witness if needed.

You will have an opportunity to make a statement to the judge. You may write your statement and read it to the judge. You should keep your statement brief and focus only on relevant topics.

The judge may ask you questions about your case. Whenever you address or answer the judge, be straightforward and to the point. Always be respectful! Always answer the question asked by the judge thoroughly, even if you think it is irrelevant. The judge may be applying laws with which you are not familiar. If you do not understand a question, ask the judge to repeat or rephrase the question.

After the judge has heard all the evidence from both sides, the judge will decide the case. If you win, either by the judge ruling in your favor or by the defendant's failure to appear, you will obtain a judgment against the defendant. The clerk and/or advisors will instruct you on how to collect the judgment from the defendant(s). Additionally, the Legal Assistance Office has a handout explaining the methods of enforcing your Small Claims Court judgment.

If you lose, the case is pretty much over. Only the defendant has the right to appeal the judge's decision. Your only possible course of action as the plaintiff is to file a motion for reconsideration to the same judge.

## **LEGAL ASSISTANCE SERVICES**

A legal assistance attorney is available by appointment Monday from 0800 - 1100 and 1300 - 1500, Tuesday through Thursday from 0900 - 1100 and 1300 - 1500, and Friday from 0900 - 1045. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

## **RESOURCES:**

### **California Small Claims Courts**

- **Small Claims Legal Advisor** (all counties): (858) 634-1900; (858) 634-1777
  - Self-Help Website: [www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)
  - **San Diego County Small Claims Court**
    - San Diego County Small Claims Court Packet:  
[www.sdcourt.ca.gov/pls/portal/docs/PAGE/SDCOURT/GENERALINFORMATION/FORMS/SMALLCLAIMSFORMS/PKT019.PDF](http://www.sdcourt.ca.gov/pls/portal/docs/PAGE/SDCOURT/GENERALINFORMATION/FORMS/SMALLCLAIMSFORMS/PKT019.PDF)
    - Central Division—Kearney Mesa: 8950 Clairemont Mesa Blvd., San Diego, CA 92123; (858) 634-1919
    - North County Branch: 325 S. Melrose Dr., Vista, CA 92081; (760) 201-8600 x1510
  - **Ventura County Small Claims Court:** 800 S. Victoria Ave., Ventura, CA 93003; (805) 654-5054
- California Code of Civil Procedure §§ 116 et seq. (2013).

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