

ALL SMALL CLAIMS SERVICE

Once you have decided to file small claims, you will need the following:

1. **TOTAL AMOUNT OWED** - rent due, property damage, stolen items, cleaning fees, etc.

(Total amount cannot exceed \$5,000.00 for a business or \$10,000.00 for a natural person.)

2. **RECEIPTS/CASH LEDGERS/ESTIMATES**

3. **CONTRACTS, ANY CORRESPONDENCE RELATING TO THIS MATTER.**

4. **PICTURES** (if applicable)

Our fee to file and serve the small claims paperwork is as follows:

\$175.00

(If more than 12 filings per year, please call for price.)

YOU MUST APPEAR AT THE TRIAL, AN ATTORNEY CANNOT REPRESENT YOU.

Please keep your originals. This office will only need copies.

You must demand payment in writing to the defendant (security disposition letter is fine).

Demand time period is 30 DAYS.

Once the case is filed and served, you will receive a copy of all the court forms from this office.

Be prepared to prove your case at the trial.

You will be given about 5 minutes to speak.

Have all your documents in order and bring at least 3 copies of everything (1 copy for you, for the defendant, and for the judge).

If you succeed in winning your case, a judgment will be mailed to you within 7 days. You must wait 30 days after the judgment has been entered before beginning to proceed with collections.

After the 30 day period, this office can sub-in as your attorney of record and take over the collection for you.

634 OAK CT SAN BERNARDINO, CA. 92410 909-889-2000 FAX 909-889-3900

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Fast Eviction Service

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FAX COVER SHEET

ATTENTION: COLLECTION DEPARTMENT

REQUEST FOR SMALL CLAIMS FILING

DATE: _____

FROM: _____

EMAIL _____ **CELL#** _____

PHONE # _____ **FAX#** _____

(sender's name, address, telephone number)

RE: _____ **V.** _____

PLAINTIFF

DEFENDANT (DEBTOR)

DEFENDANT'S EMAIL

Enclosed please find the following:

- _____ **Small Claims Take Sheet**
- _____ **Credit Card Authorization**
- _____ **Copy of Bounced Check**
- _____ **Disposition of Security Desposit**
- _____ **Other (copy of receipts, estimates)**

(sender's name and signature)

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 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 references 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 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 at www.ss.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.

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* 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.

*Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).) In an action brought by a natural person for damages for bodily injuries resulting from an automobile accident, a \$7,500 limit applies if a defendant is covered by an automobile insurance policy that includes a duty to defend. (See Code Civ. Proc., § 116.221.)

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 \$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 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 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 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 lawyers.
- 2. Interpreters** — If you do not speak English well, bring an adult who is not a witness to interpret for you, or ask the court clerk for an interpreter at least five days before your court date. A court-provided interpreter may not be available or there may be a fee for using a court interpreter unless you qualify for a fee waiver. You may ask the court for a list of interpreters and also the *Application for Waiver of Court Fees and Costs* (form FW-001).
- 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 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 Web site (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*):

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CASE FACT SHEET

"ALL SMALL CLAIMS SERVICE"

(Please type or print)

Today's Date _____

Plaintiff's name _____

Telephone # (_____) _____

Address _____

Email _____

Have you ever appeared at a small claims hearing? _____

How many small claims cases have you filed this year? _____

Are you aware of any specific dates that you would be unable to appear in court? _____

Defendant's name _____

Cell # (_____) _____

Defendant's address _____

Email _____

Defendant's SS# _____

Co-defendant's name _____

Cell # (_____) _____

Co-defendant's address _____

Email _____

Co-defendant's SS# _____

City where debt occurred _____

Date of debt obligation _____

Brief reason for filing this case _____

Amount suing for: _____

If this suit is regarding rental property, what is the property address _____

Vacate date: _____

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CREDIT CARD AUTHORIZATION

ATTN: _____ TODAY'S DATE: _____

Case Name: _____ Vs. _____

Owner's Telephone # _____ Email: _____ Fax: _____

I HEREBY AUTHORIZE FAST EVICTION SERVICE TO CHARGE MY CREDIT CARD

(VISA, MASTER CARD, AMERICAN EXPRESS, DISCOVER)

ACCOUNT# _____ CVV CODE: _____ EXP DATE: _____

Printed Name As It Appears On Credit Card : _____

Address As It Appears On Your Credit Card Statement:

Address _____ City _____ State Zip _____

FOR THE AMOUNT OF \$ _____

For the Following Services When I Am Not Present:

PLEASE CHECK ALL THAT MAY BE CHARGED:

- PREPARATION OF RESIDENTIAL NOTICE (\$65.00 EACH)
- PREPARATION OF COMMERCIAL NOTICE (\$85.00 EACH)
- PREPARE AND SIGN DECLARATION OF SERVICE OF NOTICE (\$250.00) (Additional \$50.00 if Process Server needed in Court)
- PROCESS SERVER FEE FOR NORTHERN & CENTRAL CALIFORNIA (\$150.00-\$200.00)
- UNCONTESTED RESIDENTIAL EVICTION (\$615.00 Under \$10K depending on County)*
- UNCONTESTED RESIDENTIAL EVICTION RIVERSIDE COUNTY (\$639 Under \$10k)
- UNCONTESTED COMMERCIAL EVICTION (\$815.00 Under \$20k)
- COURT HEARING (If applicable) (\$250.00-Up)
- LOCK OUT/RE-POSTING (\$250.00)
- SMALL CLAIMS (\$175.00) (If more than 12 filings per year, call for price.)
- OTHER: _____

BY SIGNING AND INITIALING THIS CREDIT CARD AUTHORIZATION FORM, I AUTHORIZE FAST EVICTION SERVICE TO HANDLE THE ENTIRE EVICTION AND COLLECTION PROCESS AND TO CHARGE MY CREDIT CARD FOR THE AMOUNT SELECTED ABOVE. I ALSO UNDERSTAND THAT ONCE FAST EVICTION SERVICE HAS RENDERED SERVICES FOR THE ABOVE CHARGE THERE ARE NO REFUNDS. THIS PAYMENT AUTHORIZATION IS TO REMAIN IN FULL FORCE UNTIL I, _____, NOTIFY FAST EVICTION SERVICE OF ITS CANCELATION BY SENDING IN WRITTEN NOTICE OF SUCH IN SUCH TIME AND IN SUCH MANNER TO ALLOW BOTH FAST EVICTION SERVICE AND THE RECEIVING INSTITUTION A REASONABLE OPPORTUNITY TO ACT ON IT

SIGNED, _____
CREDIT CARD HOLDER

Due To Your Credit Card Company's Refund Policy, Fast Eviction Service Will Be Deducting 4% From The Total Amount Of The Refund Along With A \$50.00 Processing Fee.

*Uncontested Residential Evictions Over \$10k or Uncontested Commercial Eviction Over 20k Please call for Price.

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