



## COMMUNITY DEVELOPMENT PROJECT

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### WHAT YOU NEED TO KNOW ABOUT SMALL CLAIMS COURT

In the operation of your business, you may encounter situations which force you to go to court. These situations may range from a customer not paying you for services to a landlord that fails to make necessary repairs in your rental unit.

Before you go to court, it is important to understand what will happen on your day in court and how you should prepare yourself for your court appearance. This handout is intended to help you understand what to expect in small claims court and is not intended to provide legal advice. This handout is limited to information regarding small claims court in California.

#### 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. You may ask a lawyer for advice before you go to small claims court, but a lawyer cannot represent you in the small claims case.

#### HOW MUCH CAN YOU COLLECT IN SMALL CLAIMS COURT?

To bring a claim in small claims court in California, the following limits apply:

- You can sue for a **maximum of \$12,500** if you are suing as an individual or sole proprietor.
- You can sue for a **maximum of \$6,250** if you are suing on behalf of a corporation, LLC, or public entity.
- You cannot file *more than two cases* in small claims court for more than \$3,125 each during one calendar year.

You do not need to be a U.S. citizen to file or defend a case in small claims court.

## WHAT TO DO IF YOU NEED AN INTERPRETER?

The Los Angeles Superior Court provides interpreter services at no cost to parties with limited English proficiency in small claims hearings. Spanish language interpreters are readily available in all courtrooms where small claims hearings are held. Let the courtroom staff know about your need for a Spanish interpreter on the day of your hearing. Individuals who speak a language other than Spanish may request an interpreter in advance of their court hearing through the Superior Court of California, County of Los Angeles's [Interpreter Request Portal](#).

## WHO CAN SUE IN SMALL CLAIMS COURT?

In order to sue in small claims court, you must be at least eighteen (18) years old or legally emancipated and mentally competent to file or defend a case in small claims court. You must be the original owner of the claim; someone who has been assigned a claim may not sue in small claims court.

### WHO HAS TO APPEAR AT THE SMALL CLAIMS HEARING?

- If you are suing or being sued as an individual, you must appear at the small claims hearing yourself.
- If a corporation or another entity files a claim or is sued, a regularly employed person, an officer, or a director must act on its behalf.

A person who has been employed or associated solely for the purpose of representing the corporation or entity in court may not represent the entity in small claims court. Those appearing on behalf of an entity must file a declaration, [Authorization to Appear on Behalf of Party](#) (SC-109), with the court to appear.

## WHO CAN BE SUED IN SMALL CLAIMS COURT? (NAMING THE DEFENDANT)

Almost anyone can be sued in small claims court. 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 [Secretary of State](#). If you do not know how to find this information, you can ask the small claims court clerk for help. 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.

## WHAT CAN A PLAINTIFF RECOVER IN SMALL CLAIMS COURT?

### **MONEY**

The amount of money that can be recovered in small claims court depends on whether you are operating your business as an individual or as a business entity such as a corporation or a limited liability company. **Individuals may recover up to \$10,000 per claim; entities may recover up to \$5,000 per claim.** (Exception: claims for COVID-19 Rental Debt, see below for more information).

There are limitations on the number of cases you can file in small claims court depending on the amount of the claim. Only two cases over \$2,500 can be filed per calendar year. For amounts below \$2,500, you may file as many cases as you need.

### **COVID-19 Rental Debt**

As of November 1, 2021, a landlord can sue a tenant in small claims court to recover COVID-19 rental debt that is more than the normal limits for small claims actions. If a landlord is suing a tenant for COVID-19 rental debt, then the landlord can sue for more than \$10,000 (this is an exception to the \$10,000 small claims recovery limit).

COVID-19 rental debt as described above is unpaid rent due from March 1, 2020 to September 30, 2021, and includes any other money owed, such as parking fees, under a rental lease agreement.

If you received a [Plaintiff's Claim and ORDER to Go to Small Claims Court \(COVID-19 Rental Debt\)](#) (form SC-500), then your landlord is suing you for COVID-19 rental debt in small claims court. The court has set a trial date as indicated on form SC – 500 to hear from you and your landlord before the court makes a decision.

If you cannot go to court on the day and time listed, then you may ask the court to change the court date. To request a different trial date, fill out and file a [Request to Postpone Trial](#) (form SC – 150). There is a \$10 fee to change the court date.

If you were properly served (*see section **What is Proper Service?***) and you do not go to your court date, then the judge will make a decision for the case without hearing from you. By not going to your court date, you risk losing your case and a judgment being entered against you.

### **OTHER REMEDIES (OTHER THAN MONEY)**

Normally, you may only recover money. In certain cases, however, the judge may grant equitable relief. Equitable relief is when a judge orders the defendant to do or to not do something other than pay money. Two examples of equitable relief are:

1. **Rescission.** Rescission is when a judge cancels a contract. For example, if a customer is suing you based on your contract and the judge decides that the contract is extremely unfair or involves fraud, then the judge may rescind or cancel the contract.
2. **Restitution.** Restitution is when a judge orders property returned to its rightful owner. For example, if a customer takes supplies that belong to your business and refuses to return them, the judge may order the customer to return the supplies.

## **WHAT ARE THE TIME LIMITS ON FILING CASES IN SMALL CLAIMS COURT?**

There are strict time limits for filing a lawsuit. These limits are established by laws called “statutes of limitations” and vary for different types of cases. If a plaintiff waits beyond the statute of limitations to bring their claim, the plaintiff loses the right to bring the claim. It is not easy to figure out if it is too late to file a lawsuit. If you are unsure, you may consider filing your case and letting the judge decide. While there are exceptions, the below statutes of limitations usually apply to the following claims:

**CALIFORNIA STATUTES OF LIMITATIONS FOR COMMON CLAIMS:**

<b>Basis of claim</b>	<b>Time you have to file</b>
Oral Contracts (verbal agreements)	Two (2) years from the date the contract was broken. (See Cal. Code Civ. Proc. Section 339)
Written Contracts (written agreements)	Four (4) years from the date the contract was broken. (See Cal. Code Civ. Proc. Section 337)
Personal Injury (someone was hurt)	Two (2) years from the date of the injury. A minor has two (2) years after their eighteenth (18th) birthday to file a claim regardless of when their injury occurred. (See Cal. Code Civ. Proc. Section 335.1)
Damage to Personal or Real Property (damage to your personal property or your home)	Three (3) years from the date the damage occurred.
Fraud (someone lied or tricked you on purpose)	Three (3) years from the date the fraud was discovered.

Exceptions: There are certain exceptions that may apply to your case, for example:

- “Delayed Discovery Rule” states that the statute of limitations or deadline for bringing a claim will not start running until the claimant discovers the injury or harm, or reasonably should have discovered it;
- A minor, or someone who was under 18 at the time of the incident at issue;
- Someone who was incarcerated at the time of the incident at issue (in jail) (See Cal. Code Civ. Proc. Section 352.1)

**WHERE CAN A PLAINTIFF FILE THEIR CLAIM?**

Generally, all California superior courts have what is referred to as personal jurisdiction over: 1) a person that lives in California; 2) a person that can be found in California; and 3) businesses or organizations that do business in California.

Therefore, if you sue someone who lives in California or you sue a company or organization that does business in California, California superior courts have personal jurisdiction.

Subject matter jurisdiction is also important for purposes of where you can file your claim. Small claims court is a court of limited jurisdiction, which means that the small claims court can only hear and decide cases that claim damages of \$10,000 or less (unless the case involves COVID-19 rental debt as mentioned above).

**Cases valued over \$10,000**

If you are suing someone for more than \$10,000, (for a case not involving COVID-19 rental debt) then you may file either a limited civil case or an unlimited civil case. Limited civil courts can only hear and decide cases for up to \$25,000. Unlimited civil courts can hear and decide cases where the damages are over \$25,000. You may choose to speak to an attorney or visit your local court’s “legal self-help clinic” to get more information.

## Choosing the Right Courthouse

You must also sue in the right venue, or court, and the location of the courthouse, is important. You can only file your case in one court and you must choose the right one. If you file your claim in the wrong county or at the wrong court location in the correct county, the court will dismiss the claim unless all defendants personally appear at the hearing and agree that the claim may be heard. The judge may also transfer the case to the proper court location or have the case dismissed without prejudice. You may then file the case again in the correct location and pay the filing fee again.

**The general rule regarding the venue is that the case must be filed in the county or court location where the defendant lives.** Other places where the claim may be filed include:

- Where the damage or accident happened;
- Where the contract was signed, carried out, or where you were to be paid;
- If the defendant is a corporation, where the contract was broken; or
- For a sales contract:
  - Where the buyer lives;
  - Where the buyer lived when the contract was entered into;
  - Where the buyer signed the contract; or
  - Where the goods or vehicle are permanently kept.

Based on the above options, there may be more than one court to choose from. If so, choose the court that is most convenient for you. As of July 2023, all Los Angeles Superior Court small claims cases must be filed in one of the following courthouses: Chatsworth, Compton, Bellflower, Governor George Deukmejian (Long Beach), Inglewood, Michael D. Antonovich (Lancaster), Pasadena, Santa Monica, Stanley Mosk (Downtown Los Angeles), Van Nuys East, and West Covina. You can determine where to file a new small claims case in Los Angeles County [here](#).

### WHAT DOES A PLAINTIFF NEED TO DO BEFORE FILING A CLAIM IN SMALL CLAIMS COURT?

#### **HAVE YOU TRIED TO RESOLVE THE PROBLEM BEFORE FILING YOUR SMALL CLAIMS CASE?**

You should try to contact the defendant to resolve the problem before you start the small claims process. You must make a verbal or written demand on the other person and ask for the money, property, or other relief that you intend to ask for in small claims court. If you are making your demand in writing be sure to send it by certified mail, request a return receipt from the US Post Office, and keep a copy of any letters sent for evidence.

#### **DO YOU KNOW HOW MUCH MONEY IS INVOLVED?**

Think carefully about how much money, or damages, to request. You will have to prove to the judge that you are entitled to the amount of money that you claim. You can prove your claim by presenting almost any kind of evidence, including but not limited to:

- Canceled check;
- Letter;
- Professional damages estimate;

- Photographs;
- Receipts and Invoices;
- Statements—yours and witnesses;
- Written contract;
- Text messages, emails etc.<sup>1</sup>

## HOW DOES A PLAINTIFF FILE A CLAIM IN SMALL CLAIMS COURT?

### **STEPS TO START YOUR SMALL CLAIMS CASE:**

#### **1. COMPLETE AND FILE THE PAPERWORK**

You need to complete a document called the [Plaintiff's Claim and Order to Go to Small Claims Court](#) (SC-100) to start your small claims case. The Plaintiff's Claim and other forms for small claims can be found on the Judicial Council of California [website](#). Once you have completed the Plaintiff's Claim, you need to file it with the court clerk. There are multiple ways to file court papers:

1. In person – Bring the original and two (2) copies to the courthouse.
2. US Mail – Mail the original and two (2) copies to the court clerk. You need to include the filing fee and a self-addressed stamped envelope so the clerk can mail your copies back to you. Otherwise, you will have to go to the courthouse to pick up your copies;
3. Online - Some courts allow online filing. Visit your court's website to find out if your court has online filing; and
4. Fax - Fax numbers for the LA County Superior courthouses can be found [here](#).

#### **2. PAY YOUR FILING FEES**

In order to file your small claims case, you will need to pay a fee called the filing fee. The filing fee is based on the amount of your claim. If you have filed twelve or fewer claims in the past twelve months, the following fees apply:

- \$30.00 for a claim up to \$1,500.00;
- \$50.00 for a claim of \$1,500.01 to \$5,000.00; or
- \$75.00 for a claim of \$5,000.01 to \$10,000.00.

If you have filed more than twelve claims in the past twelve months, the fee is \$100.00 regardless of claim amount you are suing for.

If you cannot afford the filing fees, you may be eligible for a fee waiver. Please see [Information Sheet on Waiver of Superior Court Fees and Costs](#) (FW-001-INFO; [Spanish](#)). Fill out the [Request to Waive Court Fees](#) (FW-001; [Spanish](#)). Make two copies of your completed form FW-001. Turn in your fee waiver forms to

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• <sup>1</sup> Note: because small claims court proceedings tend to be less formal than normal court proceedings, the hearing officer or judge often will allow text messages and emails as proof of for example, a contract, or to show that money is owed, or is not owed etc.

the clerk. The clerk will tell you how long it will take to process your request for fee waiver. For more information, refer to the Judicial Council of California's [Fee Waivers page](#).

### **3. SERVE THE OTHER PARTY WITH THE LAWSUIT- SERVICE OF PROCESS**

After you have filed your claim and obtained a court date, you will need to give each defendant an exact or true copy of the Plaintiff's Claim. The proper way of notifying the defendant(s) about the lawsuit is called service of process. Each person named must be served before your case can be heard in court. Your claim tells the other party that they are being sued and gives the date, time, and place of the hearing. Service of process can take some time. Make sure you allow enough time for service of process.

There are three (3) ways to serve the claim on the Defendant(s):

1. Personal service;
2. Substituted service; or
3. Certified mail by the court (not the person suing).

Serving the claim by **personal service** means that a process server, or someone who serves court papers to a party in a lawsuit, will give an exact copy of the Plaintiff's Claim to the defendant. This person must be someone other than yourself who is eighteen (18) years or older and is not a party to the lawsuit. This person can be a family member or a friend. You can also hire a registered process server to serve the claim. The best method is to have the sheriff in the courthouse closest to where the defendant lives or works serve your claim.

**Substituted service** means that a process server will leave a true copy of the Plaintiff's Claim at the defendant's home or business with someone eighteen (18) years or older. If the true copy is left at the defendant's business, it must be left with the person in charge during normal business hours. The process server must tell the person who receives the papers what the papers are for. True copies also must be mailed by first class mail to the defendant at the same place where the papers were left.

#### **Strict Deadlines for Service of the Lawsuit Papers**

Personal service must be completed at least **fifteen (15) days** before the hearing date if defendant resides in the county in which the action is filed, or at least **twenty (20) days** before the hearing date if defendant resides outside the county in which the action is filed. Substituted service must be made twenty-five days before the hearing date if the defendant resides in the county or thirty days if the defendant lives out of the county. Service is considered complete on the tenth day after mailing.

A [Proof of Service](#) (SC-104) must be completed for each defendant and filed with the clerk's office at the appropriate small claims court at least **five (5) days before the court date**. You can file the Proof of Service in one of three ways: (a) in person; (b) by fax (fees apply); (c) by mail.

If you were unable to complete service of process on the defendant(s) before the hearing, you may:

- Dismiss the claim without prejudice and file again with proper service as long as the statute of limitations for your type of claim has not passed; or
- File a [Request to Postpone Trial \(Small Claims\)](#) (SC-150) at least **ten (10) days** before the hearing in order to postpone your hearing and serve the defendant. Make a copy and mail or personally

give a copy of your form SC- 150 to the other people named in the claim. You may have to pay a \$10 filing fee to request the postponement.

### **WHAT IF THE DEFENDANT IS NOT LOCATED IN CALIFORNIA?**

Even if the defendant is not located in California, you **must** serve the defendant in California unless:

- You are suing about property located in California and the owner does not live in California; or
- You had a car accident in California and the owner or driver of the other car does not live in California.

If neither of these exceptions apply, you **cannot** sue this defendant in small claims court. Ask the [small claims legal advisor](#) for help on how to serve someone outside California.

However, notably, **if you are suing a company that does business in California as well as other states**, you usually will be able to locate their “agent for service of process” in California who is required by law to accept lawsuits in California on behalf of the company, by conducting a “business search” on the Secretary of State’s website, which you can find here: <https://bizfileonline.sos.ca.gov/search/business>. You would address the lawsuit to the listed agent and address when you click on the company name.

### **CAN THE DEFENDANT SUE ME?**

Yes. The person you are suing can also sue you. This is called a counter suit or counter claim. They may sue you by filing a [Defendant’s Claim and Order to Go to Small Claims Court](#) (SC-120) and serving you with a true copy.

### **HOW SOON IS THE COURT DATE?**

Once you file your case, a court hearing should be scheduled within 20 (twenty) to 70 (seventy) days.

### **CAN I CHANGE MY COURT DATE?**

Yes. If you want to change your court date, you must ask for a postponement or a continuance.

If your trial is in more than ten (10) days:

- File a [Request to Postpone Trial \(Small Claims\)](#) (SC-150) or write a letter to the court explaining that you want to change your court date; and
- Mail or personally give a copy of SC-150 or letter to the other people named in the claim.
- You may have to pay a \$10.00 filing fee to ask for the postponement.

If your trial is in less than ten days:

- Take your completed Request to Postpone Trial (Small Claims) (SC-150) or letter to the small claims court clerk’s office and ask the clerk to attach it to your file; or
- Go to your trial and ask the judge for a postponement.
- In your Form SC-150 or letter, give the judge a good reason why you are filing your request late.
- Mail or personally give a copy of SC-150 or letter to the other people named in the claim.
- Pay a \$10.00 filing fee.

The court will mail you an [Order on Request to Postpone Trial](#) (SC-152) or similar notice stating the court’s decision on your request. If the court postpones the trial, it will give you the new court date on Form SC-

152. The court will send this notice to you and all of the defendants. If the court does not postpone the trial, the trial will be on the date currently scheduled. The court will let you know that your request was denied and its reason for denial. **If you do not hear from the court, go to the court on the scheduled hearing date.**

## RESPONDING TO A SMALL CLAIMS CASE AS A DEFENDANT

### **HOW DO I RESPOND TO A PLAINTIFF'S CLAIM AND ORDER TO GO TO SMALL CLAIMS COURT?**

If you have received a true copy of the Plaintiff's Claim that names you as a defendant, you are being sued in small claims court. Read the Plaintiff's Claim carefully and note:

- Why you are being sued;
- The plaintiff's name and address;
- The date and time on which you need to appear in court; and
- The location of the court at which you need to appear.

### **RISK OF DEFAULT JUDGMENT**

**Consider attending the small claims case hearing even if you think you were sued by mistake. It is important that you do not ignore an order to appear in court even if you believe it is unfair or a mistake.**

If you do not appear, the judge may decide the case and issue a default judgment, or a decision that is entered when one party does not appear in court. (While the other party must still prove their claim, it is easier to do so if you are not there to present your side or challenge their allegations). *If you have a judgment issued against you, then you will be responsible for paying it.* You may be forced to give up your money, property, or future earnings in order to pay the judgment.

### **WHAT IF I WAS NOT PROPERLY SERVED OR NOTIFIED ABOUT THE CASE?**

You must be properly served or notified of the action against you and the date on which you must appear before the court. This service of process must be completed before your court date. There are strict time limits that must be followed. If you were not legally served within the legal time limits, you are not legally required to appear in court. If you choose to go to court anyway, you will be able to present your defense and possibly resolve the case without further delay. However, there is always a risk in not appearing in court. For example, if you believe that the other side may have filed a "proof of service" to indicate you were properly served with the lawsuit, even if it was not done properly, the court may take their proof of service as true, and may issue a judgment against you.<sup>2</sup> If such an event occurs, practically speaking, it can be difficult and time consuming to overturn a judgment based on improper service.

### **HOW DO I CHALLENGE THE COURT LOCATION OR VENUE?**

If you are being sued, you want to make sure that the case filed against you was filed at the right court and venue. If you think that the court location and/or venue where you are asked to appear is incorrect, there are three ways you can respond:

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<sup>2</sup> If you learned of the lawsuit but were not properly served, you may be able to call the court clerk in your case and ask if a "proof of service" was filed by the plaintiff which would indicate you were served with the lawsuit. If a proof of service was filed, then you may want to consider appearing for the court hearing.

1. **Request a change of venue or court location in person:** Appear at the court location stated on the Plaintiff's Claim on the court date and ask for a change of venue for court location. If the judge decides that the plaintiff filed in the wrong court location or venue, the case may be dismissed without prejudice. The plaintiff can refile the case at the correct court location.
2. **Request a change of venue or court location in writing:** Ask for a change of venue for court location by writing to the court location stated on the Plaintiff's Claim at least ten (10) days **before** the scheduled court date. The letter should: (a) state the reason you are asking for a change of venue; (b) name the correct court to which the case should be moved; and (c) include a copy of the Plaintiff's Claim that was served on you. If you are not present at the court date and the judge disagrees with you, the court date must be postponed for fifteen (15) days. The court will notify all parties by mail of the judge's decision and the new court date. You should also mail a copy of the letter to the plaintiff.
3. **Not request a change of venue or court location:** Appear for your hearing or trial date at the court location stated on the Plaintiff's Claim. The Plaintiff's Claim will state the date and time of your hearing or trial date. If you do not ask for a change of venue or court location, this means that you are giving up your right to change the venue or court location. Furthermore, the case against you will move forward and will be heard on your hearing or trial date.

### **CAN I SUE THE PERSON SUING ME?**

Yes. You can file a [Defendant's Claim and Order to Go to Small Claims Court](#) (SC-120) against the plaintiff if you believe they owe you money. Your claim of defendant or "cross claim" can be heard during the same court date if it is related to the plaintiff's case, money, or even if it involves a different transaction or event. If you decide to file a claim against the plaintiff, the same rules the plaintiff used in filing the original claim apply. Note, that you must serve the plaintiff the Defendant's Claim at least five days before the court date. An exception is, that if you got your notice of the Plaintiff's Claim less than ten days before the court date, you can serve your claim as late as one day before the court date. You should try to serve your Defendant's Claim as early as possible. You may want to consult an attorney or a small claims advisor before filing a Defendant's Claim or if you have any questions about a claim filed against you.

### **HOW CAN I SETTLE THE CASE?**

You can try to reach a settlement or agreement with the plaintiff before your court date if the case is valid. Settling the case outside of court can save you time, money, inconvenience, and a potential judgment against you. If you lose in court, you may be ordered to pay the plaintiff's court costs in addition to the amount the plaintiff is asking for in money damages. Court costs may include official fees and charges a party pays in order to file a case or obtain documents needed to enforce a judgment. The judgment may require a losing party to pay court costs incurred by the party that wins if they (a) are of a kind allowed by law; (b) were incurred necessarily; and (c) are reasonable in amount.

You may write to or speak with the plaintiff before the court date. You may be able to clear up any misunderstandings that caused the plaintiff to file the case. You can work out a payment plan or discuss paying in full if you owe the money. If you and the plaintiff settle the case, both parties should sign a written agreement stating the terms of the settlement. The agreement should include:

- The name and addresses of the plaintiff and defendant;
- The total amount to be paid;
- The amount of each payment;

- The number of payments;
- The due date for each payment;
- The start date for the payments;
- Any grace period for payments;
- The parties' understanding as to whether the payments satisfy the claim(s) in full and prevent the plaintiff from suing the defendant for the same claim(s) again;
- That the plaintiff will dismiss the lawsuit against defendant if all amounts are timely paid under the settlement agreement;
- And what happens if one or both parties break the settlement agreement (e.g., fails to pay).

### Language in Settlement Agreement

Dismissing a Case "With Prejudice" versus "Without Prejudice": When you reach an agreement, the plaintiff can request that the court dismiss the case with or without prejudice. If the plaintiff dismisses the case "without prejudice" and you do not make your payments or otherwise abide by the settlement agreement, the plaintiff will be able to refile the case against you! If the plaintiff dismisses the case "with prejudice" on the other hand, it means that the plaintiff may not file another lawsuit against you on the same claim. Therefore, upon settling a claim, most defendants prefer to have the settlement agreement state that the case will be dismissed "with prejudice." You may want to have an attorney review the settlement agreement before you sign it.

If you cannot settle the case on your own, mediation may help. If, after mediation, you were still unable to settle the case, you must go to court. You will be able to explain your side to the judge. After the judge has heard both sides, they will make a decision which will be binding. This means that you must abide by the decision.

## PREPARING FOR TRIAL

***Most small claims case hearings last only fifteen to twenty minutes.*** For this reason, it is best to make sure you are prepared for your day in court.

Organize your evidence ahead of time and be prepared to present all of the important facts to the court in an organized manner. You may want to prepare a chart or timeline of the facts in chronological order and take brief notes on what you want to say. Spend some time thinking about:

- Questions the judge may ask;
- Points that you want to make;
- What the other party is likely to say; and
- What evidence they may have.

Prepare any evidence you may have to support your case ahead of time. If you have documents, bring the original and at least two photocopies. You will keep the original and give one copy to the judge and the other to the defendant. Evidence may include:

- Written contracts, agreements, warranties, or other documents that prove your case;

- Receipts or canceled checks that prove you are owed money;
- Letters, texts, or any documentation you have of conversations between you and the defendants discussing the issue;
- Bills or repair estimates;
- Photographs of property damage or injuries;
- Police reports;
- Any physical evidence you may have;
- Your own statements; and
- Witnesses to testify on your behalf. If it is not possible to get your witness to come to court, try to obtain a sworn statement also known as a “declaration” ([MC-030](#)) from each unavailable witness to bring to court with you. Be sure to include (a) the witness’s statement of the facts which should end with “I declare under penalty of perjury under the laws of the State of California that the above is true and correct.”; (b) the witness’s signature; (c) the date the statement was written; (d) the witness’s address and phone number. If your witnesses need proof that they are needed to testify to help them get permission to be absent from work, you can have a subpoena issued to order your witnesses to appear in court. In order to have the court issue the subpoena, you will need to fill out the [Small Claims Subpoena for Personal Appearance and Production of Documents at Trial or Hearing and Declaration](#) (SC-107).

If you are bringing witnesses, it is important to prepare them for court. Do they know the date of your hearing and to which courthouse they should go? Do you know what they will say?

#### WHAT HAPPENS ON THE DAY OF TRIAL?

On the day of trial, make sure you arrive at the courtroom early. Look for your name on the court calendar posted outside the courtroom, and make sure to go inside the courtroom to check in with the clerk. If you do not see your name on the list or if the list is not posted, check with the small claims clerk.

You will be called into the courtroom and the clerk or bailiff will discuss the courtroom procedures. If you are not called into the courtroom, and the court door is unlocked, you can go inside the courtroom and check in with the clerk who often sits at a desk near the front of the courtroom. The clerk or bailiff will call roll to see who is present for their hearing. You and parties to other cases will be asked to take an oath to tell the truth. Note that the first cases heard may be those for which the defendant is not present because they usually take less time. Cases may not be heard in the order listed on the court calendar so it is important to remain in the courtroom until your case is called.

The courtroom is kept silent while cases are being heard and while the clerk or bailiff is speaking. If you wish to speak to the other party to discuss a settlement or any other matter, politely ask them to step outside with you.

Your case may be heard by a temporary or pro tem judge. A temporary judge is a lawyer who has volunteered to help the court by hearing certain kinds of cases. Temporary judges are lawyers who have been licensed for at least ten (10) years and have completed a training program for small claims judges.

You will be asked to stipulate that a temporary judge may hear and decide your case. You do not have to consent; however, if you do not, your case may be rescheduled to a later court date.

### **HOW DO I PRESENT MY CASE?**

Both the plaintiff and defendant are called when the judge is ready to hear your case. In court, only one person speaks at a time. Be respectful of the judge and the other party. Do not interrupt others who are speaking. The plaintiff is allowed to speak first.

If you are the plaintiff, first make your case for why the defendant is at fault and then make the case for how much money you are owed. If you are the defendant, make the case for why you are not at fault before contesting the amount owed.

- When the judge allows you to speak, be truthful and present the facts of the case. *You will only have a few minutes to give your side of the dispute.* Give an overview of your case and briefly make your points, sticking to the facts. Be objective and control your feelings. You are not in court to convince the judge that the other party is a bad person; you are there to prove that you are owed money or that you do not owe money.
- Remember to speak to the judge, and not to the opposing party. If the judge asks you a question, answer it directly. Avoid long statements that do not directly answer the judge's questions. If you do not understand a question or comment, politely ask the judge to explain.
- If you have any evidence, say so. Have your evidence available to give to the judge.

### **WHEN WILL THE JUDGE MAKE A DECISION?**

The judge can make a decision as soon as the end of the hearing. However, in most cases, the judge will make their decision after the hearing based on evidence from the parties who appeared in court. You will receive the decision on a [Notice of Entry of Judgment](#) (SC-130). If the judge makes a decision later rather than making a decision in court, you will receive the notice by mail. If you do not receive a copy of the Notice of Entry of Judgment within two (2) to three (3) weeks after your court date, contact the small claims court.

### **WHAT IF I DECIDE I WANT TO GO TO MEDIATION ON THE DAY OF TRIAL?**

It's not too late! Most small claims courts will have mediators present on the day of the trial to help you work out a settlement before you have to present your case to the judge.

### **WHAT IF I MISS MY COURT DATE?**

**Plaintiff:** If you were the plaintiff and you did not appear in court, you are in default. The judge may reschedule your case; dismiss the case with prejudice which means you cannot file another case on the same claim or incident; dismiss the case without prejudice which means you can start over and file your case again as long as you are within the statute of limitations; or decide against you after looking at the defendant's evidence.

**Defendant:** If you were the defendant and you did not appear in court, the judge will ask if you were given proper notice of the court date. If the Proof of Service shows that the service of process was properly made, the judge will hear the case. The plaintiff must still prove their claim with evidence before a default judgment, or decision, is made. The judge will not decide a case against a defendant just because they did not appear in court.

Both plaintiffs and defendants who did not appear and a judgment was made can ask the small claims court to set aside or vacate the judgment. You will need to complete a [Notice of Motion to Vacate Judgment and Declaration \(Small Claims\)](#) (SC-135) and explain why you did not appear. If the judge finds good cause, or a sufficient reason, for you not appearing on your court date, the request to set aside the judgment may be granted. The motion to vacate must be filed within **thirty (30) days** from when the judge's decision was mailed to you. If the defendant was not properly served, then the defendant has **180 days, from when the defendant found out or should have found out about the judgment, to file to ask to vacate the judge's decision.** Defendants whose requests to vacate are not granted, have ten (10) days from the mailing date of the denial to appeal the decision and need to file a [Notice of Appeal](#) (SC – 140) with the small claims court.

## WHAT HAPPENS AFTER TRIAL?

### **WHAT IF I WIN?**

The judge will award you the money owed and if you ask, may award you court costs such as filing fees, process server fees and witness fees. You must wait thirty (30) days before trying to collect your money. This period of time allows the defendant to file an appeal, or challenge the decision, if they appeared at the hearing. If the defendant did not appear at the hearing, they can file a “motion to vacate judgment.” After thirty (30) days, you can take action to begin collecting the money awarded to you.

### **WHAT IF I LOSE?**

As the plaintiff, you cannot appeal if you lose on your Plaintiff's Claim.

### **Appeals**

If you are the defendant (or cross-defendant) and you believe that you have a valid reason, you can file a [Notice of Appeal](#) (SC-140). You have **thirty (30) days** from the date you received the Notice of Entry of Judgment (Small Claims) to appeal the judgment against you. The judgment against you cannot be enforced while your appeal is pending; you do not have to pay the judgment until you lose the appeal or it is dismissed. Your appeal will be heard by a different judge.

You should not file an appeal just to delay paying the other party. If the judge determines that you filed an appeal only to harass the other party or encourage them to abandon their claim, the court may award them a judgment against you for additional expenses.

### **WHAT IF THERE WAS A CLERICAL ERROR?**

If there was a clerical error in a judgment, you can ask the small claims court to correct the error. You will need to file a [Request to Correct or Cancel Judgment and Answer \(Small Claims\)](#) (SC-108) and clearly describe the error within **thirty (30) days** of the date that you received the Notice of Entry of Judgment. You will appear in the same court your case was heard.

## IF I WIN MY CASE, HOW DO I COLLECT MY MONEY?

If you win your case, the money the court awards you is called the judgment and you are the judgment creditor. The person who owes you money is the judgment debtor. The judgment becomes final **thirty (30) days** after you receive the Notice of Entry of Judgment. If the defendant has not filed a Notice of Appeal or a Notice of Motion to Vacate Judgment and Declaration, you may collect the judgment.

The court will not collect the money for you—it is up to you to collect the money. The court can help you by issuing the orders and other documents required to force the debtor to pay. Not all judgments are collectable because the debtor may not have any income or property of value.

As the judgment creditor, you should make sure the judgment debtor is aware of the judgment and knows where to send the payment. You should work with the judgment debtor to arrange payments. You can offer to accept less than the whole judgment if the debtor pays right away; if you agree to accept less than the whole judgment, you will give up your right to the rest of the money.

**Satisfaction of Judgment-** once a judgment is paid, either in full, or the amount the judgment creditor (plaintiff) agrees to accept as a full payment, then the plaintiff should immediately file a [Satisfaction of Judgment form with the Court](#) (EJ-100) which informs the court and others that the defendant does not have any outstanding debt from this case.

### **WHAT IF THE JUDGMENT DEBTOR REFUSES TO PAY ME?**

If the judgment debtor does not pay you voluntarily, it can be complicated, expensive, and take a lot of time to collect your money. **Do not use illegal ways to collect your money.** The judgment debtor may be protected from abusive or unfair ways to collect the debt. Things you should **not** do in your efforts to collect debt include:

- Lie or make misleading statements to collect a debt;
- Harass the debtor;
- Ask another person for more than basic information about where the debtor is;
- Tell the debtor's employer or other people that the debtor owes you money (except when you get an earnings withholding order from the court); or
- Get in touch with the debtor before 8:00 a.m. or after 9:00 p.m. or at any time or place that is not convenient.

If the judgment debtor has not paid the judgment by the date the court ordered, there are various ways in which you can collect or enforce the judgment:

1. **Request payment of the judgment by a phone call, letter or email, or an in-person meeting** with the judgment debtor and remind them that a judgment has been entered in your favor and request making arrangements so the judgment can be paid off. If you do not get a response from the judgment debtor within **seven (7) to ten (10) days**, you should write a formal final demand letter stating the amount you were awarded and that if you do not

receive the payment within a set period of time, you will begin formal collection proceedings against the judgment debtor.

2. **Ask the small claims court to find the judgment debtor in contempt.** The judgment debtor must fill out [Judgment Debtor's Statement of Assets \(Small Claims\)](#) (SC-133) and send it to the judgment creditor within thirty (30) days of judgment unless they appeal the judgment or file a motion to vacate the judgment. If the judgment debtor does not complete and return this form to you within **thirty (30) days** of the judgment, you may ask the small claims court to find the judgment debtor in contempt and the court may add any fines charged to the judgment.
3. If you cannot collect the judgment from the debtor through the above methods, you may **use the sheriff to help you collect your money**. First, you should file an [Application and Order to Produce Statement of Assets and to Appear for Examination](#) (SC-134) and pay a fee for it to be issued in order to find out what assets, if any, the judgment debtor owns. After filing an Application for Order to Produce Statement of Assets and to Appear for Examination, there will be a judgment debtor's examination during which the judgment debtor will appear in court to answer questions about their assets (money or property) that can be used to pay the judgment. If you want the debtor to bring certain documents, have the small claims clerk issue a [Small Claims Subpoena for Personal Appearance and Production of Documents at Trial or Hearing and Declaration](#) (SC-107). These forms must be served by the sheriff, a registered process server, or a person appointed by court order at the judgment creditor's request.

In order to collect the money after finding out what assets the judgment debtor owns, you must file a [Writ of Execution](#) (EJ-130). A writ of execution is an order from the court to the sheriff that allows the sheriff to collect money owed to you. You get a writ of execution at the court clerk's office. Some ways the sheriff can help collect your money include:

- Garnishing the wages of the judgment debtor until the debt is paid. If you know where the judgment debtor works, the sheriff can collect 25% of the debtor's wages above minimum wage, each month, until your judgment is paid in full.
- Placing a bank levy on, or collecting money from, the judgment debtor's bank accounts. If you know where the judgment debtor banks, you can ask the sheriff to collect money from their accounts. The Writ of Execution must have the name and branch address of the bank.
- Doing a till tap or removing money from the cash register of a business to pay a judgment. The sheriff can remove money from the cash register of the judgment debtor's business. If the initial till tap does not pay the full judgment amount, you can have the sheriff complete additional till taps. You will need to pay a fee each time.
- Putting a keeper in the judgment debtor's business. A sheriff will remain in the judgment debtor's business and collect all funds until the judgment is paid. This can include cash, checks, and credit card drafts.

You can find more information including fees charged and required court documentation, [here](#).

4. You may also place a **lien** on any property owned by the judgment debtor. If the property is sold you will be paid out of the proceeds before the title can be transferred. You place a **lien** on any property owned by the judgment debtor by filing an [Abstract of Judgment \(EJ-001\)](#) and pay a fee for it to be issued. Record it with the county recorder in each county where the judgment debtor owns property.
5. One final way you can enforce the judgment is to have other civil penalties imposed on the judgment debtor.

#### **WHAT DO I DO AFTER RECEIVING FULL PAYMENT?**

After the judgment debtor has paid you the judgment amount in full, you, as the judgment creditor, must complete, sign, and file the "Acknowledgment of Satisfaction of Judgment" portion of the [Notice of Entry of Judgment](#) (SC-130) or an [Acknowledgment of Satisfaction of Judgment](#) (EJ-100). If you filed an Abstract of Judgment in any county where the judgment debtor owned property, you must file the longer Acknowledgment of Satisfaction of Judgment (EJ-100). You will need to have this notarized before having it recorded by the county recorder. Completing these forms is like giving a receipt and is needed to end the case. You must file this form within **fourteen (14) days** of receiving a written request from the judgment debtor. You can be held liable for losses that the judgment debtor incurs because of your failure to do so as well as other fines.

#### **CAN I ADD COLLECTION COSTS AND INTEREST TO MY JUDGMENT?**

Yes. You can add your collection costs plus 10% interest per year onto your judgment. To do this, you need to file a [Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest](#) (MC-012) with the clerk's office. You have two (2) years from the date you paid to add collection costs to your judgment. You can add interest anytime prior to collection.

#### **WHAT IS THE TIME PERIOD WITHIN WHICH I HAVE TO COLLECT?**

You have ten (10) years from the date the judgment was entered to collect your money. If you cannot collect within ten (10) years, you can renew the judgment by filing an [Application for and Renewal of Judgment](#) (EJ-190) and a [Notice of Renewal of Judgment](#) (EJ-195). You must file these forms with the clerk before the end of the ten (10) year period. Be sure to send a copy of each form to the judgment debtor and file a proof of service with the court.

#### **IF I LOST MY CASE, HOW DO I PAY THE JUDGMENT?**

If you lost the case and need to pay a monetary judgment, you are the judgment debtor. The judgment becomes final **thirty (30) days** after you receive the Notice of Entry of Judgment or the date it is mailed. If you have not filed a Notice of Appeal or Notice of Motion to Vacate Judgment, you must pay the judgment.

If you do not pay the judgment against you within **thirty (30) days**, complete a [Judgment Debtor's Statement of Assets](#) (SC-133). You will receive this form with the Notice of Entry of Judgment. You are required to provide information about your income and assets which are used in collecting the money you owe. If you do not provide this information, you can be brought back into court when the judgment

creditor completes and files an Application and Order to Produce Statement of Assets and to Appear for Examination. You will then have to submit the Judgment Debtor's Statement of Assets to the court.

You can either pay the judgment creditor in one lump sum or work out a payment plan. You may also pay the court if you do not want to deal with the plaintiff, cannot find the plaintiff, or want to end the claim immediately. To pay the court, you must complete a [Request to Pay Judgment to Court](#) (SC-145) and submit it with the total judgment amount. The small claims clerk will complete and file an [Acknowledgment of Satisfaction of Judgment](#) (EJ-100). There is a fee for this service.

You may ask the plaintiff if they are willing to accept pay. If you and the plaintiff cannot agree on a payment plan, you will need to file a [Request to Make Payments \(SC – 220\)](#) and [Financial Statement \(EJ – 165\)](#). Copies of these forms are sent to the plaintiff by the court. A hearing may be held to determine if the payment terms are acceptable

### **HOW CAN I PROTECT MY PROPERTY OR INCOME?**

You may be able to protect some of your property and income from being taken to pay a judgment. You can find a list of exempt assets that may be protected on [Exemptions from the Enforcement of Judgments](#) (EJ-155). File a [Claim of Exemption \(Enforcement of Judgment\)](#) (EJ-160) within **ten (10) days** after you receive notice that your property may be taken as payment of a judgment. If a garnishment is placed against your wages, you may file a [Claim of Exemption \(Wage Garnishment\)](#) (WG-006) to contest the garnishment. The court will decide if any assets and wages will be protected.

### **I HAVE MADE FULL PAYMENT. WHAT DO I DO NOW?**

If you have paid the judgment against you in full, you will want the record and case file to reflect this. The judgment creditor must complete, sign, and file the "Acknowledgment of Satisfaction of Judgment" portion of the [Notice of Entry of Judgment](#) (SC-130) or an [Acknowledgment of Satisfaction of Judgment](#) (EJ-100). If the judgment creditor does not file an Acknowledgment of Satisfaction of Judgment, you may ask the small claims court how you can satisfy the judgment. Complete a [Declaration of Judgment Debtor Regarding Satisfaction of Judgment](#) and supply proof that you paid the judgment. Proof should be signed by the judgment creditor and can be a cash receipt, a check, or a money order. The recorded Notice of Entry of Judgment or Acknowledgment of Satisfaction of Judgment is considered the receipt for the judgment and is used to close the case.

## **ADDITIONAL RESOURCES**

For further information regarding small claims, please visit:

1. The County of Los Angeles Department of Consumer Affairs provides a small claims advisor service. This service is available to individuals and businesses suing or being sued in a Los Angeles County Small Claims Court. To find out more information about this service call 213-974-9759 or visit <https://dcba.lacounty.gov/small-claims/>
2. The [California Courts Self-Help Center's website](#) provides information on the small claims process.

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