



Superior Court of California County of San Bernardino

Our Court exists to preserve and protect rights and to effect fair resolutions of all disputes brought to the Court.

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Small Claims

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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 initiates the claim is the plaintiff and the person who is being 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 with you in court.

In general, a natural person (an individual) cannot ask for more than \$10,000 in a claim. Businesses and other entities (like government entities) cannot ask for more than \$5,000. This limit on businesses does not apply to sole proprietors, who are treated as natural persons. You can file as many claims as you want for up to \$2,500 each. But you can only file 2 claims in a calendar year that ask for more than \$2,500.

There are some exceptions to the \$10,000 limit for individuals:

- As a natural person, you can only sue a guarantor for up to \$6,500 (\$2,500 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 \$4,000.)
- 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.

Collections agencies cannot sue in Small Claims court to collect on debts that are assigned to them.

If you need information regarding the Small Claims procedures, contact the Small Claims Advisor by
Phone: (909) 708-8606, (800) 634-9085
Email: smallclaims@sb-court.org

To start a Small Claims suit, you need to file the Plaintiff's Claim and Order to Go to Small Claims Court (Form SC-100). You can get this form for free on the internet, at www.courts.ca.gov/forms. You can also fill out the form for free at TurboCourt: <http://turbo-court.com>. San Bernardino County now accepts e-filing of Small Claims lawsuits through TurboCourt. TurboCourt will charge you an additional \$5.00 fee, plus the regular court fees.

Who Can File A Claim?

You must be at least 18 years old to file a claim. If you are not yet 18, 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, relative or an adult friend.

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.

Unless you fall within two technical exceptions, you must be the original owner of the claim to sue someone. This means that if the claim is assigned to someone else, 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.

If a corporation files a claim, an employee, officer, or director must act on its behalf. If the claim is filed on behalf of an association or other entity that is not a natural person, a regularly employed person of the entity must act on its behalf. See the Authorization to Appear form (SC-109).

Small Claims Court Checklists

For the Plaintiff

- Contact the other party to discuss and try to resolve the problem. Consider mediation or other informal dispute resolution services.
- Familiarize yourself with small claim court procedures and time limits for filing a claim.
- Determine the exact amount in dispute.
- (a) File a claim form and pay the filing fee (Form: Plaintiff's Claim and Order to Go to Small Claims Court, Form SC-100), or (b) if you are a business, file an Authorization to Appear form (SC-109) if appropriate.
- Arrange for service of process on each defendant (make sure the Proof of Service form is returned to court before hearing; make sure the minimum days of notice are met.)
- Prepare for court (organize your thoughts, collect evidence, make copies of photos and documents, talk to witnesses).
- Keep communication open; try to resolve the dispute with the other party before hearing.
- Attend the hearing and present your case.
- Wait for the decision from the judge, usually coming in the mail after the hearing. The plaintiff cannot file an Appeal if you disagree with the judge's ruling.

For the Defendant

- Contact the plaintiff and try to work out dispute. Suggest or agree to try mediation or other informal dispute resolution methods.
- Familiarize yourself with the small claims court procedures.
- If you have a claim against the plaintiff, consider resolving it at the same hearing (File the form called Defendant's Claim and Order to Go to Small Claims Court, Form SC-120).
- Prepare for the court hearing (organize your thoughts, collect evidence, make copies of photos and documents, talk to witnesses).
- Keep communication open; try to resolve the dispute before the hearing.
- If you owe money, try to either pay it or work out a payment plan.
- If necessary, ask the court to postpone hearing to let you and the plaintiff resolve the dispute informally.
- Try to avoid a court judgment from being entered against you since it may appear on your credit record.
- Attend the hearing and present your defense.
- Wait for the decision, which usually comes in the mail after the hearing. The defendant only has 30 days from the time the clerk mails the Notice of Entry of Judgment to file the Notice of Appeal (SC-140).

Where Can You File Your Claim?

You must sue in the right court and judicial district. This rule is called venue. 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 rules don't allow you to pick the courthouse closest to where you live.

Look at the Plaintiff's Claim (SC-100), Question 5, for help in figuring out the right courthouse. The most common reasons for filing at a particular courthouse: where the defendant lives or does business; where the accident happened; or where the contract was entered into or broken.

How Much Will It Cost?

Filing Fees

Claims for \$1,500.00 or less	\$30.00
Claims from \$1,500.01 to \$5,000.00	\$50.00
Claims from \$5,000.01 to \$10,000.00	\$75.00
Persons or Business who have filed more than 12 claims in CA in the previous 12 mos.	\$100.00
Service of Documents by Certified Mail	\$15.00 (per defendant)
Notice of Appeal	\$75.00
Writ	\$25.00
Abstract	\$25.00
Order of Examination	\$60.00
Motion to Vacate	\$20.00
Request to Postpone Hearing	\$10.00

If you decide to e-file your case, you will have to pay an additional \$5 to TurboCourt. (<http://turbocourt.com>)

CAUTION: Cases filed with a Request to Waive Court Fees may not be filed through TurboCourt.

Who Will Hear Your Case?

Your case will be heard by a small claims court commissioner, a temporary judge, or a judge. A commissioner has all the responsibilities and powers of a judge. A temporary judge (judge pro tem) is an attorney who volunteers his or her time to hear and decide cases. A temporary judge also has all the responsibilities and powers of a judge. At the beginning of the court session you may object to the temporary judge and ask that your case be heard by a judge. The judge may decide the case at the time of the hearing or mail the decision to the parties later.

Notifying The Defendant Of 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 delivering to the defendant a copy of the claim. You cannot do this yourself. There are three ways to serve the defendant:

Personal Delivery of Papers

- You may ask anyone who is not a party in your case and who is at least 18 years old to deliver the papers to the defendant. Important Note: The defendant can only be served within the boundaries of the State of California, with 2 exceptions for out-of-state drivers and property owners.
- Registered process servers will do this for you for a fee. Sheriff's Court Services will also serve the paperwork for you for a fee. Alternatively, you can ask any person you know to deliver the papers for you, as long as that person is at least 18 years old.

Certified Mail

- Only the court clerk can do service by certified mail, return receipt, for you. The clerk will charge you a \$15 fee. For the service to be valid, the person you are suing must sign the green card and return it to the courthouse. You need to decide whether your defendant will cooperate. Most corporations will cooperate with this procedure. Note: to serve a corporation you must indicate the Agent for Service. You should

check back with the court prior to the hearing to see if the receipt for certified mail was returned to the court.

Substituted Service

- This method lets you serve another person instead of the defendant under certain circumstances.
- You must follow the procedures exactly.
- You may also wish to use a registered process server.

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 20 days if the defendant lives outside the county. Be sure to follow all of the required procedures which you can find on our court web page located at <http://www.sb-court.org>.

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