

## Reasons to Mediate if you're the Person being Sued (Defendant)

If you are the defendant, settling through mediation may allow you to avoid having a judgment on your credit. You may be able to clear up any misunderstandings and come to an agreement that you both think is fair. If the plaintiff makes promises in the agreement, and fails to perform, you can ask the court to enforce the agreement as a contract.

## Definition of Mediation

Mediation is a voluntary and confidential process that allows the parties to meet with a trained, impartial mediator. The mediator helps parties that are in conflict communicate with each other in a respectful and more effective way. The mediator will help the parties define issues, overcome obstacles in their communication, and explore potential solutions. The entire process proceeds by agreement of the parties.

## Other Benefits of Mediation

- **Court-connected mediation is free.**
- **You can avoid the pressures of having to present your case to the judge.** Mediation is less formal than the court room and you will have the chance to speak freely and directly to the other person.
- **You will reach your own solution.** Solutions that address the interests and needs of the parties have a better chance for getting the other person to cooperate. The court knows less about the dispute than you do, and therefore, may not give you the result you are seeking.
- **You might reach an agreement on all issues that concern you.**
- **All discussions during the mediation are confidential, and cannot be repeated at trial.** You can speak freely about your feelings, concerns, disappointments and anything else that feels relevant to you.
- **Clear, respectful communication** – If you have a relationship of any kind with the other party or may deal with him or her in the future, mediation can provide the opportunity for understanding, better communication or reconciliation.
- **Mediated agreements are enforceable by the court.**
- **If you do not reach agreement, you can still have a trial.**

## CALIFORNIA COURTS SELF-HELP CENTER

[www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)

### FOR QUESTIONS ABOUT THE LAW AND FORMS:

#### Lake Small Claims Advisor

Scott D. Reep 866.768.9013

#### Mendocino Superior Court Self-Help Center

Ukiah Courthouse, 3rd floor

Walk-in services Monday through Thursday, 12:00 pm until 4:00 pm  
707.468.2020

### FOR MEDIATION SERVICES:

Lake/Mendocino Superior Courts'  
Civil Mediation Program  
[lakemendomediation@gmail.com](mailto:lakemendomediation@gmail.com)  
707.263.2264

Lake County Dispute Resolution  
Services  
[lcdrs.org@gmail.com](mailto:lcdrs.org@gmail.com)  
707.263.6800

# SMALL & CLAIMS

Mediation?  
File a Lawsuit?

*Your Options Explained*



## 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. You may not have an attorney in a small claims case, unless you are appealing a judgment. When you sue in small claims court you must sue someone for money. Sometimes a Small Claims Court can order a party to do something, but only so long as you ask the Court for money, in the event that the party does not perform the ordered task. For example: You can ask the Small Claims Court to order the person to either return your bike or pay you for the cost of the bike. But Small Claims Court will not make decisions about the return of personal property if there is no request for money.

## How much money can I sue for in Small Claims Court?

An individual can sue for up to \$7,500. Corporations, partnerships and other legal entities (like government entities) can sue for up to \$5,000. 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.

## What kinds of disputes does Small Claims Court handle?

Small Claims Court handles many kinds of disputes but most fall under two types of cases: torts and contracts.

- A **tort** is “a private or civil wrong; failure to perform some duty required by law or custom, resulting in harm to another”. For example, you could sue for compensation for losses and injuries resulting from a car accident.
- A **contract** is “an agreement between 2 or more people to do or not to do a particular thing” or “an agreement between 2 or more people that makes, changes, or ends a legal relationship”. When a contract has been broken or not followed by one of the persons who entered into the contract, the other person may have the right to sue for money to compensate for the losses suffered by the breach.

## How much does it cost to file a Small Claims Case, and are there time limits?

Filing fees vary. Check with your local Court to get the exact filing fee amount.

There are time limits (“statute of limitations”) for filing in small claims, and the times vary for different types of claims. Here are some time limits for filing common cases:

- Personal Injury, Assault, Battery – 2 years
- Verbal Contracts – 2 years
- Injury to real or personal property, Injury from Fraud, Theft – 3 years
- Written Contracts – 4 years

## What forms are used to file Small Claims cases?

You must make a demand for payment to the other side before suing. Once you’ve done that and get no satisfaction, you can fill out Judicial Council form [SC-100](#), “[Plaintiff’s Claim and Order to Go to Small Claims Court](#).” Make sure you fill it out with the complete name of the party you are suing and file it in the right Court, generally in the county in which the other party resides. If you are suing as a business you will also need to fill out Judicial Council form [SC-109](#), “[Authorization to Appear](#).”

You will receive a Court hearing date at the time you file the **SC-100**. After you file, you must inform the other party by giving (“serving”) them a copy of the SC-100. Serving the other side in person must be done by someone over 18, not yourself, at least 15 days before your hearing date. Once all parties have been properly served, the person who served them must fill in Judicial Council Form **SC-104**, “**Proof of Service**”. This form must be filed with the court at least 5 days before your hearing date.

## What Evidence is Needed to Prove a Case?

Evidence can be witnesses, records (such as bills, receipts, contracts, photos) or other exhibits that will help you prove your case. Statements by a witness who did not see or hear the incident is known as “hearsay” and usually cannot be used as evidence. If you are suing, you have the “burden of proof” to prove your case. After you do that, the burden shifts to the other side to counter anything you’ve said to defend him or herself. Bring 3 copies of all the evidence you want to show, to share with the judge and the other side.

## What Should I do if I’m Being Sued?

First, contact the person suing you and try to work it out before Court. Mediation is an effective way to do this. If you want to sue the person who is suing you, file and serve a form called a “**Defendant’s Claim and Order to Plaintiff**”, **Judicial Council**

**Form SC-120**. Try to have both hearings at the same time. The judge will listen to both sides of the story. Bring evidence like witnesses, photos, bills, receipts, contracts and any other relevant documents that support your side. If you do not come to court to tell your side, the person suing you could get a judgment against you which could hurt your credit.

## If I win, how do I enforce the judgment?

If you win your case, the judge will sign an order that you are then responsible for enforcing. **The court will not collect the money you are owed for you.** There are a number of different ways to enforce a judgment, most of which involve more time, paper work and money to accomplish. For more information regarding enforcing a judgment, contact your local Self-Help Center or Small Claims Advisor.

## What if I don’t agree with the judge’s decision?

You can appeal a Small Claims decision, but only if you were being sued. If you filed the case you cannot appeal.

## A MEDIATED RESOLUTION MAY GIVE YOU A BETTER RESULT THAN A TRIAL

Sometimes the courtroom is not the best place to resolve a dispute. California courts encourage everyone in Small Claims cases to try and work it out with the other side before court. Mediation is an opportunity to settle the matter so that you’re both satisfied.

## Reasons to Mediate if you’re the Person Filing (Plaintiff)

You may or may not get what you’ve asked for from the court. Even if you do win, you’re the one who has to collect the money once you have a judgment. In mediation, you may be able to clear up any misunderstandings with the other person and come to an agreement that you both think is fair. You may be able to get the defendant to pay you immediately as part of your negotiation. If the defendant fails to live up to his or her end of the agreement, the court can enter a judgment against that person.