



File papers



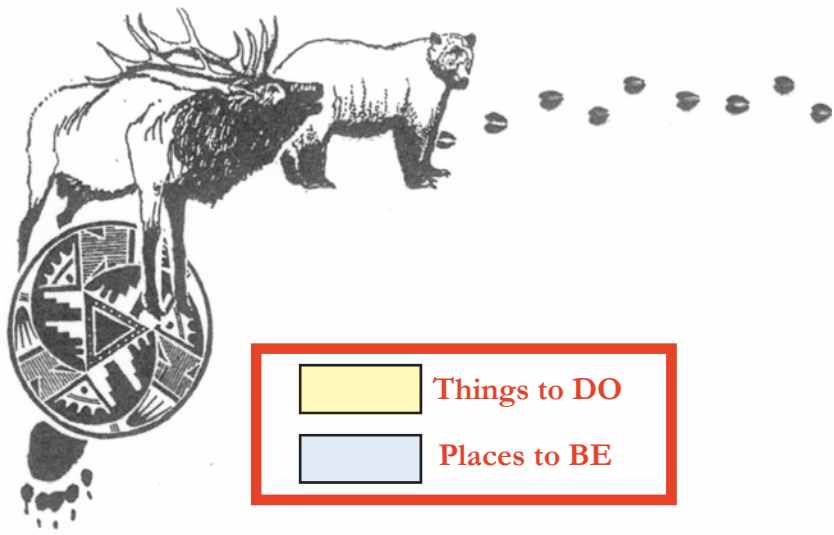
Serve papers



Judge - Court hearing



Law Enforcement



- Things to DO
- Places to BE



## Small Claims Court

Small Claims Court is a court to resolve claims for \$5,000 or less without an attorney. The rules are simple and the hearings are informal.

### Things To Consider Before Filing a Small Claims Court Case:

- ◆ You may talk to an attorney about your case but attorneys are not allowed to represent you in Small Claims Court. You will be speaking for yourself at the hearing.
- ◆ You should be familiar with the law that applies to your case.
- ◆ Not all disagreements can be heard in Small Claims Court. You may need to file in Superior Court.
- ◆ If more than one person owes you for the same claim, they must be sued together for a claim of no more than \$5,000.
- ◆ Make sure you have the correct name of the person or business that you believe is responsible for your claim.
- ◆ In most cases, the person you are suing must be served in California.
- ◆ There are two exceptions:
  - ◇ If the Defendant owns real property in California.
  - ◇ If the Defendant owned and operated a vehicle involved in an accident in California.
- ◆ If you are the Plaintiff (the person suing), and you lose your case, you do not have the right to appeal.
- ◆ For further information go to:
  - ◇ [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov),
  - ◇ Siskiyou County Public Law Library, or
  - ◇ [www.dca.ca.gov](http://www.dca.ca.gov).

### Is Small Claims Court Right For Me?

Small Claims Court is for:

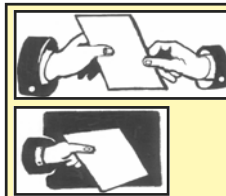
- ◆ Claims for up to \$5,000. If your claim is worth more than \$5,000, you can file in Small Claims Court **only** if you are willing to ask for \$5,000 or less.
- ◆ A broken agreement, contract, or personal injury cases.
- ◆ Cases where the legal time limit has not run out (Statute of Limitations).

Small Claims Court is not for:

- ◆ Claims for more than \$5,000.
- ◆ Eviction cases.
- ◆ Divorce or family law matters.

#### DEMAND FOR PAYMENT

You may be able to avoid Small Claims Court. Before you file your claim, you must ask for payment (called a "demand"). You can do this in writing, in person, or by phone. If the debt is not paid, you can file a claim in Small Claims Court.



#### Preparing Your Claim

(You can get the small claims court forms from the Court Clerk or at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).)

After making a demand for payment and the debt is still not paid, you may file a *Plaintiff's Claim and Order to Go to Court (SC-100)*. By filing the claim, you will be the Plaintiff in the case. The Defendant is the person you are suing. Do the following:

- ◆ Make sure you have the correct name and spelling of the person or business you are suing.
- ◆ Fill out the *Plaintiff's Claim (SC-100)* by either typing it or printing it in black ink.

- ◆ You will need to pay a fee when the *Plaintiff's Claim (SC-100)* is filed. If you cannot afford the fee, you may ask the Court Clerk about a fee waiver.
- ◆ File the *Plaintiff's Claim (SC-100)* with the Court Clerk. The Court Clerk will give you copies of the filed documents.
- ◆ Have each Defendant served with a copy of the *Plaintiff's Claim (SC-100)*.

#### Serving Your Claim

You must arrange to have a copy of the *Plaintiff's Claim (SC-100)* served or delivered to each Defendant you are suing.

- ◆ A copy can be personally given to the Defendant by a law officer (Sheriff), process server, or a person over the age of 18 who is not a Plaintiff or a Defendant in the case.

- ◆ The person who serves the Defendant must complete a *Proof of Service* form that shows how and when the Defendant was served. The *Proof of Service* must then be filed with the Court Clerk.
- ◆ If the Defendant will voluntarily accept service through the mail by signing a receipt, the Court Clerk can do this for a fee. Ask the Court Clerk for more information.
- ◆ There are strict time limits for serving the papers on both Plaintiff and Defendant. See [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov) for more information.

#### Information For The Defendant



- ◆ If you are the Defendant (the person being sued), you may be able to file a *Defendant's Claim and Order to Plaintiff*. This is done if you believe the Plaintiff has caused you harm or owes you money. The *Defendant's Claim* is filed in the same case and must be served on the Plaintiff. (See **Serving Your Claim**.)
- ◆ Even if you do not file a *Defendant's Claim*, you should appear on the court date to tell the Judge your side. If you do not appear, a judgment may be entered against you.
- ◆ There are strict time limits for serving the papers on both Plaintiff and Defendant. See [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov) for more information.

#### Getting Ready For The Hearing

Both the Plaintiff and the Defendant need to get ready for the hearing. Most cases take only 5-15 minutes, so you must be organized. You should:

- ◆ Organize the papers that prove your case (for example, contracts, receipts, cancelled checks, and/or photographs).
- ◆ Make enough copies for the Judge and each Plaintiff or Defendant. Bring the originals and copies with you to court on the hearing date.

- ◆ Make a list of the things you want to tell the Judge that are important to your case.
- ◆ Practice saying what you want to tell the Judge.
- ◆ Make a detailed list of the amounts of money you believe are owed to you.
- ◆ Be prepared to answer questions from the other side.
- ◆ If you have witnesses to testify on your behalf, make sure they know the date, time and location of the hearing.
- ◆ If a witness does not agree to go to court, you can ask the Court Clerk for a subpoena before the hearing. A subpoena is

a form that you fill out and take to the Court Clerk. After the Court Clerk issues the subpoena, you will then serve the witness. This subpoena orders the witness to be at the hearing.

- ◆ You may talk to an attorney even though the attorney cannot represent you in court.
- ◆ For more information go to:
  - ◇ [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)
  - ◇ Siskiyou County Public Law Library
  - ◇ [www.dca.ca.gov](http://www.dca.ca.gov), or
  - ◇ Siskiyou County Self Help Clinic (Facilitator)

#### Settlement

The Plaintiff and Defendant can agree to settle the case before the hearing. If you reach an agreement, Plaintiff must file a *Request for Dismissal* with the Court Clerk. This will cancel the court hearing.

Your case number \_\_\_\_\_  
Notes \_\_\_\_\_

#### What The Plaintiff Must Do

- ◆ Be ready to talk about the claim in detail, but be brief and to the point.
- ◆ Have enough copies of all papers you plan to use for the Judge and the other side.
- ◆ Be prepared to answer questions from the Judge or from the Defendant.
- ◆ It is up to you to prove your claim to the Judge.

#### What The Defendant Must Do

- ◆ Be ready to talk about the claim in detail, but be brief and to the point.
- ◆ Have enough copies of all papers you plan to use for the Judge and the other side.
- ◆ Be prepared to answer questions from the Judge or from the Plaintiff.
- ◆ If you have filed a claim against the Plaintiff, it is up to you to prove your claim to the Judge.

#### Your Court Date

##### What To Expect In The Courtroom:

- ◆ Be on time and dress properly.
- ◆ Make sure you and your witnesses know when and where the hearing is going to be held. Small Claims hearings are held in open court. This means other people may be there.
- ◆ If you do not speak English, you may bring a friend or relative to translate for you. The court does not provide interpreters.
- ◆ **Be Prepared**, as small claims cases usually take between five (5) and fifteen (15) minutes.

#### The Court Hearing

##### The Hearing:

- ◆ When your case is called, go to the tables at the front of the courtroom.
- ◆ If you are going to testify, you will take an oath. Be polite. Do not interrupt. Do not repeat yourself.
- ◆ The Judge will listen to both sides. The Plaintiff will testify first and have his/her witnesses testify. Then the Defendant will

testify about the claim and his/her witnesses will testify.

- ◆ The Judge may ask questions of the Plaintiff, Defendant and witnesses.
- ◆ The Plaintiff and Defendant may ask questions of each other and of the witnesses.
- ◆ The Judge will make a decision on the claim either at the hearing or at a later date in writing.

**The Court Decides Your Case** At the end of the hearing, the Judge may make a decision. Or the Judge may decide later and send you the decision in writing. The decision of the Judge is called the "judgment."

##### Decision In Favor Of The Plaintiff:

The Defendant may appeal. If the Defendant does not appeal, the Plaintiff may proceed to collect on the judgment. The Plaintiff may file a *Request to Correct* if he/she feels there is a clerical error in the judgment.

##### Decision In Favor Of The Defendant:

The Plaintiff **cannot** appeal the decision. If there is a *Defendant's Claim* decided against the Plaintiff, the Plaintiff may appeal that judgment.

#### Notice Of Entry Of Judgment

The *Notice of Entry of Judgment* is the document that the Court Clerk prepares telling the parties the judgment has been made and entered into the court's records. The date that the *Notice of Entry of Judgment* is mailed to the parties is the date that is used to timely file additional documents if one of the parties is asking the Judge's decision to be reconsidered.

#### If You Want A Judgment Reviewed

There are two ways to ask that a judgment be reviewed:

##### Notice Of Appeal:

- ◆ If you want to have a new hearing, you can appeal the judgment by filing a *Notice of Appeal*.
- ◆ The Defendant may appeal a decision on a *Plaintiff's Claim* and the Plaintiff may appeal on a *Defendant's Claim*.
- ◆ At the new hearing, attorneys will be allowed.
- ◆ The *Notice of Appeal* must be filed 30 days from the date that the *Notice of Entry of Judgment* was mailed.
- ◆ Forms are available from the Court Clerk.
- ◆ There are filing fees and additional costs to be paid.
- ◆ For more information, go to: [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov), Siskiyou County Public Law Library, or [www.dca.ca.gov](http://www.dca.ca.gov).

##### Request To Correct Or Vacate Judgment:

- ◆ If you believe there has been a clerical error in the judgment, you may file a *Request to Correct or Vacate Judgment*.
- ◆ Either the Plaintiff or Defendant may file this request.
- ◆ This will **not** be a new hearing.
- ◆ The Judge will review your request.
- ◆ There are filing fees and additional costs to be paid.
- ◆ For more information, go to: [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov), Siskiyou County Public Law Library, or [www.dca.ca.gov](http://www.dca.ca.gov).

#### Collecting A Small Claims Judgment

If there is no appeal from a small claims judgment, the Plaintiff or the Defendant (on a *Defendant's Claim*) can take steps to enforce or collect the judgment.

- ◆ You must do this for yourself; the court will **not** collect it for you.
- ◆ Judgments that are not paid earn interest of 10% per year.
- ◆ If the Judge decided in your favor, you are now called the Judgment Creditor.
- ◆ The party owing the debt is called the Judgment Debtor.
- ◆ You can have an attorney help you collect a judgment even though you were not allowed to have an attorney at the hearing. The procedures for debt collection require specific court forms and court procedures. For more information, go to: [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov), Siskiyou County Public Law Library, or [www.dca.ca.gov](http://www.dca.ca.gov).



## Explanation of terms used in the Small Claims process

**Appeal:** A new hearing to have a judgment reviewed. Also called a *Trial De Novo*.

**Certified Mail:** A way to send documents to the other party through the United States mail so that he/she must sign to receive the mail. The sender will get back a form showing when and who signed for the mail.

**Defendant:** The Defendant is the person or business that the Plaintiff has sued.

**Judge:** The Judge is the court officer who will be hearing and deciding your case. The term "Judge" may also refer to a judicial officer, commissioner or a temporary judge (judge pro tem).

**Judgment:** The decision of the Judge. Also called the "decision" or the "court order." It states the amount that the judgment debtor owes to the judgment creditor or the action to be taken. The judgment may also include other terms such as the date when payment must be made.

**Judgment Creditor:** The judgment creditor is the person in whose favor a judgment has been made.

**Judgment Debtor:** The judgment debtor is the person against whom the judgment has been made.

**Party / Parties:** The person or business actually named in a court case is called a "party" to the case. This would include a Plaintiff or Defendant, Claimant or Cross-Claimant.

**Plaintiff:** The Plaintiff is the person who files the claim.

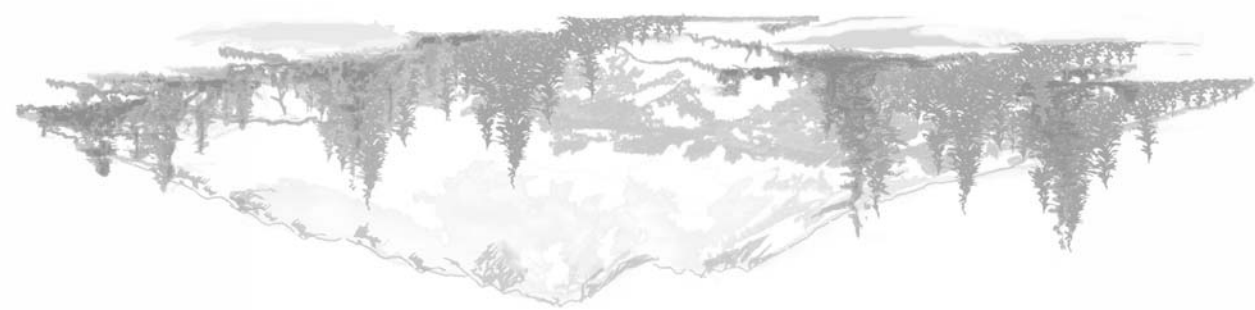
**Proof Of Service:** The *Proof of Service (SC-104)* is a form that shows when the other party was served the papers. The Proof of Service must be completed by the person serving court papers on a party, stating that service was properly made.

**Request For Dismissal:** This is a form filed with the court if a settlement or agreement is made between the parties before the hearing is held. The dismissal will cancel the scheduled hearing and stop the proceeding.

**Statute Of Limitations:** A certain time allowed by a statute for bringing litigation.

**Serve / Service:** The giving of formal notice to the Defendant that a claim has been filed against him/her. Some papers must be personally delivered and others may be served by mail. The act of giving the papers to the other party is called "service" or "serving." This must be done by someone who is not a party to the case and who is at least 18 years of age.

**Subpoena:** An official order for a person to appear in court. The person may also be ordered to bring documents.



Siskiyou County

This educational brochure was created because the public requested more information about court processes, and it reflects the ideas and suggestions of people throughout Siskiyou County.

Superior Court *sincerely* appreciates the public's help in developing this visual-storytelling brochure.

This is a general guide through the  
**Small Claims Court**  
process.

Please be aware that your case may be different.

You may get the necessary forms from the Court Clerk in the Civil Division of the Superior Court. This is where the forms are filed.

<b>Civil Division Hours:</b> Monday thru Friday 8:00 AM to 4:00 PM 311 Fourth Street Yreka, CA 96097	<b>Telephone Hours:</b> Monday thru Friday 8:00 AM to 3:00 PM ☎(530) 842-8082 or 842-8238 ☎888-854-2000 (toll free)
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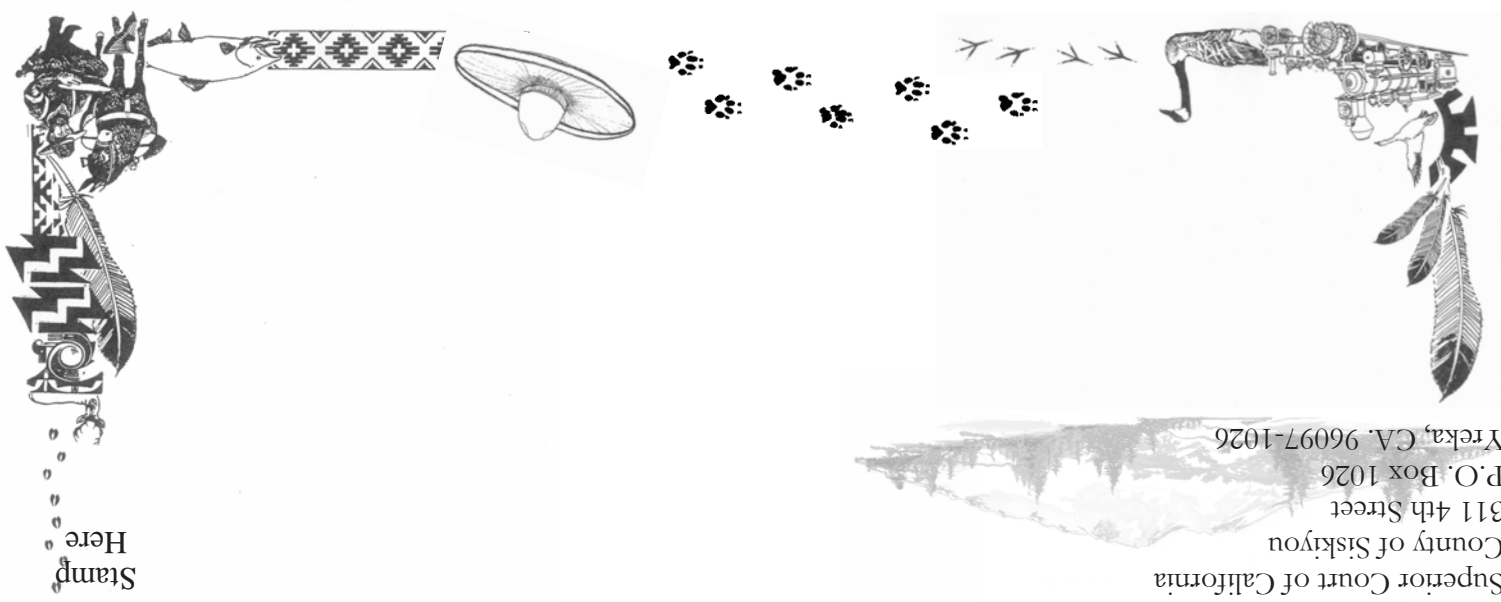
- ◆ Seek information and assistance filling out forms at the **Self-Help Clinic (Court Facilitator)**, 500 N. Main Street, Yreka, CA. Call for clinic schedule ☎(530) 842-8380, or 842-0157.
- ◆ Find further information and court forms at the **Siskiyou County Public Law Library**, in the Courthouse: 311 Fourth Street, Yreka, CA.
- ◆ **Judicial Council forms** are available on the Internet at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

### Superior Court of California, County of Siskiyou locations:

**Main Courthouse:** (Civil, Criminal, and Juvenile Divisions) 311 Fourth Street, Yreka, CA 96097. ☎ (530) 842-8082 or 888-854-2000 (toll free)  
**Family Law Branch:** 510 N. Main Street, Yreka, CA 96097. ☎ (530) 842-8082  
**Family Court Services:** (Mediation) 500 N. Main Street, Yreka, CA 96097. ☎ (530) 842-0192  
**Facilitator:** (Self-Help Clinic) 500 N. Main Street, Yreka, CA 96097. ☎ (530) 842-0157  
**Weed Branch:** (Traffic Division) 550 Main Street, Weed, CA 96094. ☎ (530) 938-2483  
**Dorris Branch:** 324 N. Pine Street, PO Box 828, Dorris, CA 96023. ☎ (530) 397-3161  
**Happy Camp Branch:** 28 Fourth Street, Happy Camp, CA 96039. ☎ (530) 493-2327  
**Internet address:** [www.siskiyoucourts.ca.gov](http://www.siskiyoucourts.ca.gov).

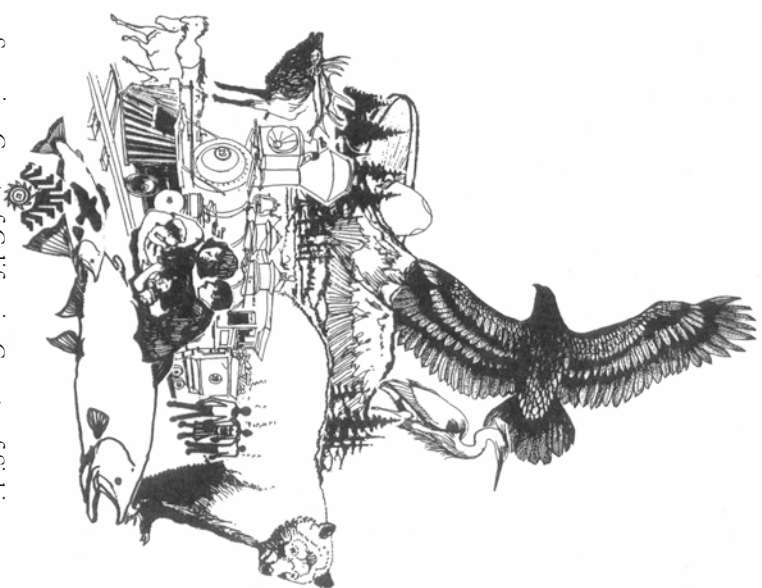
Please Note: Court Clerks cannot give legal advice.

Revised 2-05



Superior Court of California  
County of Siskiyou  
311 4th Street  
P.O. Box 1026  
Yreka, CA 96097-1026

This brochure is provided as a general  
guide through the  
**Small Claims Court**  
process.



Superior Court of California, County of Siskiyou  
Civil Division (Courthouse)  
311 Fourth Street  
Yreka, CA 96097  
(530) 842-8082 or 842-8238  
888-854-2000 (toll free)

You should seek legal advice regarding your specific case. This flowchart shows a typical case process. Your case may be different. Laws and procedures referred to may change. Ask the Court Clerk about time limits for filing documents and possible filing fees. This brochure is not intended to provide legal advice and the Siskiyou County Superior Court is not responsible for the result of your case based upon the use of this guideline.