

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
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Patrick O'Donnell, Committee Counsel
Small Claims and Limited Cases Subcommittee
Hon. L. Thomas Surh, Chair
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DATE: September 17, 2007

SUBJECT: Small Claims: Interpreter Instructions (revise forms SC-100
and SC-150) (Action Required)

Issue Statement

Information provided to the defendant on the plaintiff's claim form (form SC-100) under the heading "What if I don't speak English well?" (page 4) is misleading because it implies that the court can provide an interpreter for free. Parties appear at the small claims hearing expecting a free interpreter. When a free interpreter is not available, parties are disappointed with the court system and the case must be postponed to give parties time to locate an interpreter or complete a fee waiver application form. This may result in unnecessary delays that could have been avoided had the parties been previously informed to bring someone to the hearing to interpret for them or to ask the court for an interpreter in advance of the hearing. The "Interpreters" paragraph on the *Information for the Plaintiff* form (SC-150, page 2) does not conform to the information provided on form SC-100.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2008, revise *Plaintiff's Claim and ORDER to Go to Small Claims Court* (form SC-100) and *Information for the Small Claims Plaintiff* (form SC-150), to clarify the responsibility of the court and the parties concerning court interpreters.

The text of the revised forms is attached at pages 6–12.

Rationale for Recommendation

The information about interpreters provided to the defendant on current form SC-100 is misleading because it implies that the court can provide an interpreter for free. Page 4 of form SC-100 is titled “Information for the Defendant (the person being sued).” In the section titled “What if I don’t speak English well?” is the statement: “Ask the clerk if the court can give you an interpreter for free.” Although some courts try to provide interpreter assistance to the small claims court, there is no guarantee that a free interpreter can be provided in all cases. Only if a small claims party qualifies for a fee waiver must the court appoint an interpreter at public expense. (*Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412; Cal. Rules of Court, rule 3.61(5).)

After taking into consideration the many comments for improving the interpreter instructions, as discussed more fully below, the committee has revised the instructions to delete the reference to a “free” interpreter, reordered the sequence of the instructions, added an instruction to ask the court for an interpreter at least *five* days before the court date, and added an instruction to ask for a list of interpreters and the fee waiver application form.

Parties who check with the court in advance of their hearings will be better informed about interpreter availability and court requirements for supplying a free interpreter. If they are not qualified for a fee waiver and no free interpreter can be provided, parties would be prepared to bring someone to interpret for them to the hearing, minimizing the need to postpone the hearing. An interpreter may also be required at other small claims hearings—for example, on a request to correct or vacate the judgment.

Conforming amendments have been made to the Spanish version of the instructions on page 5 of the plaintiff’s claim form. Conforming amendments have been made to the English interpreter instruction on page 2 of form SC-150. Minor technical corrections such as punctuation and spacing have been made to both forms at the suggestion of the Administrative Office of the Courts copy editors. The sentence describing small claims jurisdiction on page 1 of form SC-150 (top) under the heading “What is Small Claims Court?” has been rewritten to more clearly state the law.

The text of the instructions on forms SC-100 and SC-150 would be revised as follows:

1. *Plaintiff’s Claim and ORDER to Go to Small Claims Court* (form SC-100), page 4, “Information for the Defendant (the person being sued)”:

What if I don't speak English well?

~~Ask the clerk if the court can give you an interpreter for free. If not, Bring someone—like an adult relative or friend—who can is not a witness to interpret for you, in court. It is best if your interpreter is not a witness or listed in this case. or ask the court clerk for a list of an interpreter at least five days before your court date. (Interpreters usually charge a fee.) 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).~~

2. *Information for the Small Claims Plaintiff* (form SC-150), page 2:

Interpreters—~~If you do not speak English well, you may take a family member or friend to court with you bring an adult who is not a witness to interpret for you. Some interpreters charge a reasonable fee or no fee. or ask the court clerk for an interpreter at least five days before your court date. If an interpreter is not available, the court must postpone the hearing one time only so that you have time to get one. 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).~~

Alternative Actions Considered

The proposed revisions to the forms' instructions are needed to help reduce small claims trial postponements and disappointed litigants. Because the revisions would improve the administration of small claims court, the committee did not consider alternative actions.

Comments From Interested Parties

The proposal to revise the interpreter instructions on forms SC-100 and SC-150 was circulated for statewide public comment in spring 2007. Eighteen comments from superior courts, court executive officers, court supervisors, small claims advisors, staff attorneys in self-help centers, legal services attorneys, and the State Bar Committee on Administration of Justice were received.

Three commentators agreed with the proposal as drafted. Fourteen commentators agreed with the proposal if modifications were made, and one disagreed with the proposal.

Many commentators thought that the instructions should be modified to increase the time a litigant must ask the court clerk for an interpreter, ranging from 2 days before a party's court date, which was suggested in the proposal that circulated for comment, to 3, 5, or 10 days. One court suggested an alternative, a blank space to

be completed by the court. There was consensus among most commentators that two days' advance notice was not enough time for a court to schedule an interpreter. One commentator observed that a request for ADA accommodations must be filed five days before the hearing, and another noted that a court must act on a fee waiver application within five days. The committee agreed that five days' advance notice is reasonable for both small claims parties to contact the court about arrangements for a court interpreter and for the court to arrange an interpreter to be present at the hearing.

The committee rejected the suggestion that 10 days' advance notice be given to the court because this is too far in advance of the hearing and might result in continuances if parties make the request beyond the 10 days. The committee also noted that a cross-claim does not have to be filed until 5 days before the hearing. The committee recognized that a hearing may nevertheless have to be postponed if an interpreter is not available.

One commentator objected to deleting the reference to having friends or family members interpret and noted that this "information will be soothing." The committee wishes to indicate a preference for a disinterested person, "an adult who is not a witness." This does not necessarily preclude a friend or family member from serving as an interpreter at the hearing. Sometimes the only person available to translate is a relative or friend—for example, when an elderly person must appear in court. The court can determine on a case-by-case basis whether the interpreter may be biased.

Several commentators requested that the order of the instructions be changed. The circulated proposal first suggested that a party bring his or her own interpreter. The second sentence says, "Or ask the clerk for a list of interpreters." The last item addresses the possible need to fill out a fee waiver application for a free interpreter. Several commentators requested that the fee waiver application for a free interpreter be stated first, rather than suggesting that a party bring his or her own interpreter. The committee is informed that in some courts a free interpreter may be provided whether or not the parties qualify for a fee waiver. For example, a court interpreter may have an open period when he or she is not engaged in another case, or the court may schedule a special language calendar on a given day.

At the suggestion of a member of the Judicial Council's Rules and Projects Committee in light of comments and concerns on the difficulty many courts have in obtaining interpreters, the Civil and Small Claims Advisory Committee agreed to add text that "a court-provided interpreter may not be available." The committee also reordered the instructions somewhat by accepting text revisions

suggested by the State Bar Standing Committee on the Delivery of Legal Services with some minor modifications. The text is shown above, starting on page 3 (top).

A chart of the comments and the committee's responses is attached at pages 13–22.

Implementation Requirements and Costs

Because the form revisions are technical or occur only on the instruction pages of the forms, the cost impacts should be minimal. However, because these forms are used in high volume small claims court by self-represented persons, court staff must be familiar with the forms and instruction sheets. Therefore additional costs will be incurred by courts to train staff on the form revisions to provide accurate and uniform information to the public. No major retooling of case management programs or e-filing systems appear to be necessary.

Attachments

Clerk stamps date here when form is filed.

Notice to the person being sued:

- You are the Defendant if your name is listed in ② on page 2 of this form. The person suing you is the Plaintiff, listed in ① on page 2.
- You and the Plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en ② de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en ① de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number and case name:

Case Number:**Case Name:****Order to Go to Court****The people in ① and ② must go to court:** (Clerk fills out section below.)

Trial Date	Date	Time	Department	Name and address of court if different from above
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

Date: _____ Clerk, by _____, Deputy

Instructions for the person suing:

- You are the Plaintiff. The person you are suing is the Defendant.
- *Before* you fill out this form, read Form SC-150, *Information for the Plaintiff (Small Claims)*, to know your rights. Get SC-150 at any courthouse or county law library, or go to: www.courtinfo.ca.gov/forms
- Fill out pages 2 and 3 of this form. Then make copies of **all** pages of this form. (Make 1 copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each Defendant a court-stamped copy of all 5 pages of this form and any pages this form tells you to attach. There are special rules for “serving,” or delivering, this form to public entities, associations, and some businesses. See Forms SC-104, SC-104B, and SC-104C.
- **Go to court on your trial date listed above.** Bring witnesses, receipts, and any evidence you need to prove your case.



Case Number: _____

Plaintiff (*list names*): _____

1 The Plaintiff (the person, business, or public entity that is suing) is:

Name: _____ Phone: (____) _____

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

If more than one Plaintiff, list next Plaintiff here:

Name: _____ Phone: (____) _____

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

Check here if more than 2 Plaintiffs and attach Form SC-100A.

Check here if either Plaintiff listed above is doing business under a fictitious name. If so, attach Form SC-103.

2 The Defendant (the person, business, or public entity being sued) is:

Name: _____ Phone: (____) _____

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

If more than one Defendant, list next Defendant here:

Name: _____ Phone: (____) _____

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

Check here if more than 2 Defendants and attach Form SC-100A.

Check here if any Defendant is on active military duty, and write his or her name here: _____

3 The Plaintiff claims the Defendant owes \$ _____ . (*Explain below*):

a. Why does the Defendant owe the Plaintiff money? _____

b. When did this happen? (*Date*): _____
If no specific date, give the time period: *Date started*: _____ *Through*: _____

c. How did you calculate the money owed to you? (*Do not include court costs or fees for service.*) _____

Check here if you need more space. Attach one sheet of paper or Form MC-031 and write "SC-100, Item 3" at the top.



Plaintiff (list names): _____

4 You must ask the Defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this? Yes No

If no, explain why not: _____

5 Why are you filing your claim at this courthouse?

This courthouse covers the area (check the one that applies):

- a. (1) Where the Defendant lives or does business. (2) Where the Plaintiff's property was damaged. (3) Where the Plaintiff was injured. (4) Where a contract (written or spoken) was made, signed, performed, or broken by the Defendant or where the Defendant lived or did business when the Defendant made the contract. b. Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).) c. Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civil Code, § 1812.10.) d. Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civil Code, § 2984.4.) e. Other (specify): _____

6 List the zip code of the place checked in 5 above (if you know): _____

7 Is your claim about an attorney-client fee dispute? Yes No

If yes, and if you have had arbitration, fill out Form SC-101, attach it to this form, and check here:

8 Are you suing a public entity? Yes No

If yes, you must file a written claim with the entity first. A claim was filed on (date): _____

If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

9 Have you filed more than 12 other small claims within the last 12 months in California?

Yes No If yes, the filing fee for this case will be higher.

10 I understand that by filing a claim in small claims court, I have no right to appeal this claim.

11 I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: _____ Plaintiff types or prints name here Plaintiff signs here

Date: _____ Second Plaintiff types or prints name here Second Plaintiff signs here



Requests for Accommodations

Assistive listening systems, computer-assisted, real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the trial. Contact the clerk's office for Form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civil Code, § 54.8.)



“**Small claims court**” is a special court where claims for \$5,000 or less are decided. A “natural person” (not a business or public entity) may claim up to \$7,500, including a sole proprietor. The process is quick and cheap. The rules are simple and informal.

You are the Defendant—the person being sued. The person who is suing you is the Plaintiff.

Do I need a lawyer?

You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

How do I get ready for court?

You don’t have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that supports your case. And read “Get Ready for Court” at: www.courtinfo.ca.gov/selfhelp/smallclaims/getready.htm

What if I need an accommodation?

If you have a disability or are hearing impaired, fill out Form MC-410, *Request for Accommodations*. Give the form to your court clerk or the ADA/Access Coordinator.

What if I don’t 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).

Where can I get the court forms I need?

Go to any courthouse or your county law library, or print forms at: www.courtinfo.ca.gov/forms

What happens at the trial?

The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

What if I lose the case?

If you lose, you can appeal. You’ll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file Form SC-140, *Notice of Appeal*. You must file within 30 days after the judge’s decision.
- If you were *not* at the trial, fill out and file Form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File Form SC-140.

For more information on appeals, see: www.courtinfo.ca.gov/selfhelp/smallclaims/appeal.htm

Do I have options?

Yes. If you are being sued, you can:

- **Settle your case before the trial.** If you and the Plaintiff agree on how to settle the case, both of you must notify the court. Ask the Small Claims Advisor for help.
- **Prove this is the wrong court.** Send a letter to the court *before* your trial, explaining why you think this is the wrong court. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done this.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To make sure the witnesses go to the trial, fill out Form SC-107, and the clerk will subpoena (order) them to go.
- **Sue the person who is suing you.** File Form SC-120, *Defendant’s Claim*. There are strict filing deadlines you must follow.
- **Agree with the Plaintiff’s claim and pay the money.** Or, if you can’t pay the money now, go to your trial and say you want to make payments.
- **Let the case “default.”** If you don’t settle and do not go to the trial (default), the judge may give the Plaintiff what he or she is asking for plus court costs. If this happens, the Plaintiff can legally take your money, wages, and property to pay the judgment.

What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial) *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county) *or*
- You need more time to get an interpreter. One postponement is allowed, and you will not have to pay a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out Form SC-110 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



Need help?

Your county’s Small Claims Advisor can help for free.

Or go to “County-Specific Court Information” at: www.courtinfo.ca.gov/selfhelp/smallclaims



La “Corte de reclamos menores” es una corte especial donde se deciden casos por \$5,000 ó menos. Una "persona natural" (que no sea un negocio ni una entidad pública) puede reclamar hasta \$7,500. El proceso es rápido y barato. Las reglas son sencillas e informales.

Usted es el Demandado — la persona que se está demandando. La persona que lo está demandando es el Demandante.

¿Necesito un abogado?

Puede hablar con un abogado antes o después del caso. Pero *no puede* tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

¿Cómo me preparo para ir a la corte?

No tiene que presentar ningunos papeles antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos, y cualquier pruebas que apoyan su caso. Y lea “Prepárese para la corte” en: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/prepararse.htm

¿Qué hago si necesito una adaptación?

Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, *Request for Accomodations*. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo inglés bien?

Traiga a un adulto que no sea testigo para que le sirva de intérprete. O pida al secretario de la corte que le asigne uno. Si quiere que la corte le asigne un intérprete, lo tiene que pedir como mínimo menos cinco días antes de la fecha en que tenga que ir a la corte. Es posible que no haya disponible un intérprete proporcionado por la corte o que tenga que pagar una cuota por emplear un intérprete de la corte, a menos que tenga una exención de cuotas. Puede pedir a la corte una lista de intérpretes y la Solicitud de exención de cuotas y costos de la corte (formulario FW-001).

¿Dónde puedo obtener los formularios de la corte que necesito?

Vaya a cualquier edificio de la corte, la biblioteca legal de su condado o imprima los formularios en:

www.courtinfo.ca.gov/forms

¿Qué pasa en el juicio?

El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

¿Qué pasa si pierdo el caso?

Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación*. Tiene que presentarlo dentro de 30 días después de la decisión del juez.
- Si *no* estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración* para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores/apelar.htm

¿Tengo otras opciones?

Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en resolver el caso, ambos tienen que notificar a la corte. Pídale al Asesor de Reclamos Menores que lo ayude.
- **Probar que es la corte equivocada.** Envíe una carta a la corte *antes* del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Para asegurarse que los testigos vayan al juicio, llene el formulario SC-107, y el secretario emitirá una orden de comparecencia ordenándoles que se presenten.
- **Demandar a la persona que lo demandó.** Presente el formulario SC-120, *Reclamo del demandado*. Hay fechas límite estrictas que debe seguir.
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.

¿Qué hago si necesito más tiempo?

Puede cambiar la fecha del juicio si:

- No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio) o
- No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado) o
- Necesita más tiempo para conseguir intérprete. (Se permite un solo aplazamiento sin tener que pagar cuota para aplazar el juicio).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-110 (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.



¿Necesita ayuda? El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

O vea “Información por condado” en: www.courtinfo.ca.gov/selfhelp/espanol/reclamosmenores

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 \$7,500 if you are a natural person (including a sole proprietor). (*See below for an exception.) 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.
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 old* 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.

*Except for an action against the Registrar of the Contractors State License Board, a \$4,000 limit applies if a "defendant guarantor . . . is required to respond based upon the default, actions, or omissions of another" (\$2,500 if the defendant guarantor does not charge a fee for the service).

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 \$7,500 if the defendant is a natural person (*see reverse). If the value of the claim is more than this amount, the defendant may either give up the amount over \$5,000 or \$7,500 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).

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.courtinfo.ca.gov), 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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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Saul Bercovitch Staff Attorney Committee on Administration of Justice (CAJ) State Bar of California	AM	Y	CAJ supports this proposal in general. In response to the specific request for comments, CAJ believes the instructions should be modified to state that the clerk should be asked at least 5 days before the court date if the court can provide an interpreter, instead of 2 days, to provide more time to arrange for an interpreter to be present at the court date.	The committee agrees and has amended the text of the instructions. Five days' notice is consistent with other court processes such as submitting a request for ADA accommodations (commentator 8) and ruling on a request for a fee waiver (commentator 14).
2.	Caron Caines Managing Attorney Neighborhood Legal Services of Los Angeles County	AM	Y	<p>We noticed three significant proposed changes to the interpreter instructions on Forms SC-100 and SC-150:</p> <p>1. <i>The order of the instructions</i></p> <p>The current instructions first suggest that the litigant ask the clerk for a free interpreter. Then they suggest bringing a relative or friend as interpreter. Finally, the current instructions suggest asking the clerk for a list of interpreters.</p> <p>The proposed instructions would change the order so that the litigant is first asked to bring his or her own unofficial interpreter. Then the litigant is given the option of asking the clerk for a list of interpreters. Finally, the litigant is instructed to ask the clerk for an interpreter provided by the court, and the option of the fee waiver is mentioned last.</p> <p>Our comment: The proposed language appears</p>	There were several comments on

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				<p>to suggest that the court is trying to avoid providing interpreters by encouraging litigants to bring their own interpreters. We have previously proposed that the court should adopt a policy to provide interpreters to all litigants. Since our proposal has not been adopted, the court should still encourage litigants to ask for court-provided interpreters if they need one. The order that we think should be adopted is:</p> <ol style="list-style-type: none"> 1. Ask clerk for court-provided interpreter and fee waiver; then 2. Ask clerk for list of interpreters; then 3. Bring own interpreter. <p><i>2. Two-day requirement</i></p> <p>The proposed instructions require the litigant to ask the clerk for a court-provided interpreter <u>at least 2 days</u> before his or her court date.</p> <p>Our comment: Because a party must serve the claim at least 15 days before the hearing in small claims court, and any cross-claim must be served at least 5 days before the hearing, there is only a small window of time for the parties to request an interpreter. Two days may not be sufficient time for some people to find an appropriate interpreter. Therefore, we suggest that the language should add and emphasize that the litigant request an</p>	<p>the logical order of the instructions and proposed revised language for the instructions. After discussing them all, the committee decided to follow the suggestions of commentator 13. Some courts are able to provide a free interpreter whether or not a fee waiver has been requested. Therefore, the committee is keeping the text “there <i>may</i> be a fee” and putting the fee waiver information after the request for an interpreter.</p> <p>The committee agrees that two days’ notice may not be sufficient time for a court to process a request for an interpreter. The committee amended the text to suggest at least five days’ notice. See response to commentator 1, above.</p>

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				<p>interpreter “<u>as soon as possible</u>, but at least two days” before the hearing date.</p> <p>3. <u>Change in language regarding the unofficial interpreter</u></p> <p>The current Form SC-100 asks the litigant to bring someone “like an adult relative or friend.” The current Form SC-150 instructs that the litigant “may take a family member or friend” to court with him or her.</p> <p>The proposed change would change the language on both forms to “Bring someone who can interpret for you in court. It is best if your interpreter is an adult who is not a witness.”</p> <p>Our comment: The proposed language would bring uniformity to both forms and is more appropriate and instructive than the current language.</p>	<p>No response required.</p>
3.	Joseph Chairez President Orange County Bar Association	AM	Y	<p>We are concerned only with the issue of children or someone less than 18 years of age serving as an interpreter. We would prefer if the use of a minor be discouraged. Otherwise, we like these changes which are truly necessary clarifications on the use of and payment for interpreters.</p>	<p>The committee agrees. The proposed language discourages use of children as interpreters: “Bring an adult who is not a witness to interpret for you.”</p>

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4.	Malea Chavez Staff Attorney Access Center Superior Court of San Francisco County	AM	Y	<p>The proposed changes may still be confusing to a non-English speaker. The language “The court may excuse you from paying the interpreter fee if you cannot afford it” is not clear. People may think that they cannot afford the fee even if they do not meet the court’s income guidelines. There should be some language stating that the individual must meet certain income guidelines or be approved by the court first, etc. Also, if the criteria for getting the fee waived is the fee waiver, then this should be addressed first.</p> <p>The two-day advanced notice time is not enough time for the court. Some areas of the state are experiencing a serious shortage of certified interpreters. As a result it may be very difficult to get an interpreter on such short notice. Also, in some courts there are language calendars or a push towards having language calendars, which make it easier for the parties, the interpreters, the bench officers and the court as a whole. If courts can schedule language calendars then there would only be one fee paid for the 4 hours of service by one or two interpreters who could then help multiple people on one calendar. In order to make these calendars a reality or to keep them going in counties that already have them established, the court would need more time to plan ahead.</p> <p>Finally, if the request for an interpreter is not</p>	<p>The committee agrees in part. See response to commentator 2, above, and commentator 13, below.</p> <p>The committee agrees. See response to commentator 1, above.</p>

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				required until two days before the hearing, this may lead to many cases being taking off calendar or cases being continued due to the lack of an interpreter. This is a huge cost for the court and could be avoided if the request was required earlier in the process.	
5.	Christine Copeland Staff Attorney Self-Service Center Superior Court of Santa Clara County	A	N	No comments.	No response required.
6.	Theresa Gary Family Law Facilitator Superior Court of Kern County	AM	N	Leave in "... or a person listed in this case" at the end of the first sentence. Notice should be given three days before the court date.	The committee believes that the phrase "listed in this case" may be confusing to small claims litigants. It decided to use the following phrase instead: "Bring an adult who is not a witness to interpret for you." The committee agrees that two days is not enough notice. See response to commentator 1, above.
7.	Cecilia Isaac Managing Interpreter Superior Court of Ventura County	AM	Y	On page 2, last paragraph, would agree if modified to read "It should be an adult who is not a witness in the case." On page 3, third sentence should read the interpreter "should be" an adult.	The committee agrees. The judge can decide on a case-by-case basis whether the interpreter is qualified to interpret.

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				These guidelines should be given to the parties before they come to do the trial so that whoever is brought as an interpreter knows beforehand what he/she has volunteered to do and is willing and able to do. To present this to the volunteer at trial is too much information to digest.	The committee believes that this response is to another invitation to comment on interpreter guidelines. The comments will be forwarded.
8.	Dennis B. Jones Executive Officer Superior Court of Sacramento County	AM	N	Two days' notice to arrange for an interpreter is not sufficient to guarantee interpreters will be available for the hearing or trial. This is especially true for less frequently requested languages. We suggest requiring parties request interpreter services at least 5 days before trial. This would make the requirement consistent with a request for ADA accommodations. Forms SC-100 (page 4 of 5) and SC-150 (page 2 of 2): "What if I don't speak English well?"—The instructions suggest "You may need to fill out the Application for Waiver of Court Fees and Costs (form FW-001)." Suggest rewording to "If the fees are a burden, you may fill out the Application for Waiver of Court Fees and Costs (form FW-001)."	The committee agrees. See response to commentator 1, above. The committee agrees in part. It has reordered and reworded this paragraph. See response to commentator 2, above, and commentator 13, below.
9.	Superior Court of Los Angeles County	A	Y	No specific comments.	No response required.
10.	Wanda Mackey Court Services Supervisor Superior Court of Shasta	AM	N	Two days' advance notice is not sufficient to arrange for an interpreter. I would suggest 10 days. Plaintiffs know at the time of filing if	The committee agrees that two days' notice is not enough and has provided for five days' notice. See

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	County			they need an interpreter, and definitions are served 15 days before court.	response to commentator 1, above. The committee believes that 10 days is too long and could result in trial continuances if the request is made on shorter notice. Five days is also more consistent with the time for filing a cross-claim, should one be filed in the case.
11.	Adrienne McMillian Staff Attorney Access Center Superior Court of San Francisco County	AM	N	Change “You may need to fill out the application for waiver of court fees and costs ...” to “If you have not already filed an application for waiver of court fees and costs in this case, you will need to do so and qualify for the court to provide an interpreter.”	The committee has redrafted this paragraph. See response to commentator 2, above, and commentator 13, below. Some courts are able to provide a free interpreter without a fee waiver.
12.	Pam Moraida Program Manager Superior Court of Solano County	A	N	This would be very helpful for both parties.	No response required.
13.	Sharon Ngim Program Developer and Staff Liaison Standing Committee on the Delivery of Legal Services (SCDLS) State Bar of California Office of Legal Services, Access & Fairness Programs	AM	Y	SCDLS supports this proposal with modifications. We support the reasons underlying the proposed changes, e.g., to help clarify who is entitled to a court-provided interpreter; to clarify that litigants should not use a witness as an interpreter. However, the proposed language is confusing. At minimum, the sentences are out of logical order. A simpler and more logical explanation might read “Interpreters—If you do not speak English well, either bring an adult who is not a party or witness to interpret for you, or ask the court	Several comments on the logical order of the instructions with proposed revised language for the instructions were received. The committee decided to follow the suggestions of this commentator with modifications as follows: “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

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				<p>clerk for an interpreter at least two days before the hearing. There is a fee for using an interpreter unless you qualify for a fee waiver. You may ask the court for a list of interpreters and also the <i>Application for Waiver....</i>”</p> <p>We also encourage the Judicial Council to translate this information into languages commonly used in the California courts, including but not limited to Spanish.</p>	<p>at least five days before your court date. A court-provided interpreter may not be available, and 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 <i>Application for Waiver....</i>”</p> <p><i>Information for the Defendant</i> on page 5 of the plaintiff’s claim form is translated into Spanish. The committee’s work plan includes translation of all small claims forms into commonly used languages after the forms have been converted into plain-language format.</p>
14.	Michael M. Roddy Executive Officer Superior Court of San Diego County	AM	Y	The portion of the proposed language that relates to a party requesting the court provide an interpreter should be deleted. The court currently does not have sufficient interpreters available for mandated areas. For some time, our court has been forced to operate with a vacancy that we have not been able to fill because southern California courts have essentially hired all of the Spanish interpreters that are available. Expanding this service to another area will require mandated areas to go unattended or prolong matters beyond normal business hours. For languages other than Spanish, the problem is worse since most of the certified interpreters reside outside of the	Some courts are able to provide parties with a free interpreter. Because the forms are intended to apply statewide, the committee decided to leave in the request, but has revised the instruction. See response to commentator 13 above.

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				<p>county, and it requires us to broker wages that far exceed the daily minimums. Room and board and other travel expenses are separate from the wages.</p> <p>The statewide committee is working on recruiting more people into the workforce and we are looking at ways to do the same locally, but until this happens, we will be doing our customers a disservice by offering them something that we cannot provide.</p> <p>If the proposed language remains as indicated, then the court needs requests for interpreters to be made more than 2 days prior to the hearing. By statute, a court has 5 days to rule on a request for a fee waiver; therefore, it is suggested that the forms state that requests for an interpreter should be made a minimum of 10 days prior to the hearing in order to allow the court time to schedule/arrange the interpreter should the decision be made to provide one.</p>	<p>The committee agrees that two days' notice is too short and has amended the notice provision to five days, to coincide with the time a court has to rule on a fee waiver. See also response to commentator 1, above. The committee feels that 10 days is too long and could result in trial continuances if the request is made on shorter notice. Five days is also more consistent with the time for filing a cross-claim, should one be filed in the case.</p>
15.	Gloria M. Sanchez Small Claims/Civil Advisor Superior Court of Contra Costa County	AM	N	It should be 3 days, instead of 2 days, to check with the court about available interpreters so that if no interpreters are available, the party has time to find a friend or relative to interpret in our court. Interpreters are rarely available.	The committee agrees that two days' notice is too short and has amended to provision to require five days' notice. See response to commentator 1, above.
16.	Dominique Sanz-David	N	N	I think that the informational sheet should still	The committee wishes to stress that

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	LRA Access Center Superior Court of Los Angeles County			reference the availability of friends or family members to interpret. That information will be soothing.	a disinterested person, “an adult who is not a witness,” is best.
17.	Sharol Strickland Executive Officer Superior Court of Butte County	AM	N	Two days’ notice may often not provide enough time for a court to obtain the services of an interpreter. This can be of particular concern in those courts that provide only limited services (often such as small claims cases) at remote/outlying facilities. I recommend at least 5 days prior to hearing.	The committee agrees. See response to commentator 1, above.
18.	Mary Beth Todd Executive Officer Superior Court of Calaveras County	AM	Y	We have difficulty securing interpreters in our area. Two days’ notice is not sufficient for our court to arrange for an interpreter. We request that the language be changed to “Ask the clerk at least five (5) days before your court date if the court can give you an interpreter.” Or, in the alternative, leave the number of days blank and allow each individual court to enter the number of days for sufficient notice.	The committee agrees with five days’ notice. See response to commentator 1, above.