

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report Summary

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Patrick O'Donnell, Committee Counsel
Small Claims and Limited Cases Subcommittee
Hon. Mary Thornton House, Chair
Cara Vonk, Subcommittee Counsel, 415-865-7669,
cara.vonk@jud.ca.gov

DATE: September 26, 2005

SUBJECT: Small Claims Plain-Language Forms (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120; adopt forms SC-104B, SC-104C, and SC-120A) (Action Required)

Issue Statement

Small claims forms should be drafted in plain English so that they can be easily understood, completed, and filed by laypersons who are representing themselves in small claims court. Access to court may be denied if the forms are too complicated to be understood. Five forms related to filing and service of the claim, one new attachment, and two new instruction sheets on service of process have been drafted in a plain-language format. Technical and suggested revisions have been made to two existing plain-language forms, SC-100 and SC-100A, the first plain-language small claims forms adopted by the Judicial Council, effective January 1, 2005.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2006:

1. Revise form SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*;
2. Revise form SC-100A, *Other Plaintiffs or Defendants*;

3. Revise in plain-language format and rename form SC-101, *Attorney-Client Fee Dispute (Attachment to Plaintiff's Claim)*, to *Attorney Fee Dispute (After Arbitration)*;
4. Revise in plain-language format and rename form SC-103, *Fictitious Business Name Declaration* to *Fictitious Business Name*;
5. Revise in plain-language format form SC-104, *Proof of Service*;
6. Revise in plain-language format form SC-104A, *Proof of Mailing (Substituted Service)*;
7. Adopt a new plain-language instruction sheet, form SC-104B, *What Is "Proof of Service?"*;
8. Adopt a new plain-language instruction sheet, form SC-104C, *How to Serve a Business*;
9. Revise in plain-language format and rename form SC-120, *Defendant's Claim and Order to Plaintiff*, to *Defendant's Claim and ORDER to Go to Small Claims Court*; and
10. Adopt new plain-language form SC-120A, *Other Plaintiffs or Defendants*.

The forms, which incorporate many thoughtful suggestions received from the public, will help guide the one-time user through the small claims process.

The texts of the new and revised forms are attached at pages 14–32.

Rationale for Recommendation

An important goal of plain-language forms is to help self-represented litigants file claims and navigate the court system. The proposed forms have been revised in plain language to assist small claims litigants, who must represent themselves in court. Features of the plain-language forms would make them more accessible to the user because attorney representation is not allowed in small claims court.

The proposed plaintiff's claim form, SC-100, and attachment form for adding additional plaintiffs and defendants, form SC-100A, were revised based on six months' experience with the current plain-language versions. The defendant's claim form, SC-120, was converted to a plain-language format to conform to SC-100, and a new attachment form, SC-120A, in plain language, is provided. In addition, four forms were revised and converted to plain language and two new instruction sheets in plain language were developed. All the proposed plain language forms were circulated for statewide comment and revised in response to

the comments received. A discussion of each form follows in the attached report under “Rationale for Recommendation.”

Alternative Actions Considered

Although some commentators preferred the older small claims forms, the committee decided to proceed with this proposal for the reasons explained in the report. Although plain-language small claims forms are not statutorily required, self-represented parties could be misled and confused by the current forms, resulting in frustration with the judicial system as well as wasted time for both the parties and the courts. The new forms work better for self-represented parties.

Comments From Interested Parties

The forms proposal was circulated for statewide comment in spring 2005. Many thoughtful comments were received from a broad spectrum of 27 commentators. Each comment was carefully reviewed by the committee, and many suggestions for improving the forms were incorporated in the proposed forms. A chart of the comments and the committee’s responses is attached at pages 33–92.

Some commentators continue to criticize the plain-language forms. They believe that the proposed forms are not an improvement over the “original” versions because they add instructions that lengthen the forms, adding processing and storage costs, or that confuse the user. The first plain-language form, SC-100, was field-tested on small claims litigants several times in 2004 with positive results. Many of these concerns were considered when the plain-language form was adopted last year. The committee believes that the access benefits of the plain-language forms outweigh the efficiency of the previous forms. The committee recommends that the proposed forms be adopted by the Judicial Council, effective January 1, 2006, but that forms SC-100 and SC-104 again be field-tested thereafter in several formats as resources permit. A more detailed discussion of comments received follows in the attached report under “Comments From Interested Parties.”

Implementation Requirements and Costs

In last year’s comments to the first proposed plain-language forms, several courts indicated that some retooling of their court’s existing case management systems would be required. Because the information to be filled in on the current forms and the proposed new plain-language forms are substantially the same, the courts’ case management systems should not require significant further changes. The longer forms will require additional copying and mailing costs, as well as storage costs if the forms are not scanned and stored in an electronic medium.

Attachments

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Issue Statement

Small claims forms should be drafted in plain English so that they can be easily understood, completed, and filed by laypersons who are representing themselves in small claims court. Access to court may be denied if the forms are too complicated to be understood. Five forms related to filing and service of the claim, one new attachment, and two new instruction sheets on service of process have been drafted in a plain-language format. Technical and suggested revisions have been made to two existing plain language forms, SC-100 and SC-100A, the first plain-language small claims forms adopted by the Judicial Council, effective January 1, 2005.

Rationale for Recommendation

An important goal of plain-language forms is to help self-represented litigants file claims and navigate the court system. The proposed forms have been revised in plain language to assist small claims litigants, who must represent themselves in court. Features of the plain-language forms would make them more accessible to the user because attorney representation is not allowed in small claims court.

The proposed plaintiff's claim form, SC-100, and attachment form for adding additional plaintiffs and defendants, SC-100A, were revised based on six months' experience with the current plain language versions. The defendant's claim form,

SC-120, was converted to a plain-language format to conform to SC-100, and a new attachment form, SC-120A, in plain language, is provided. In addition, four forms were revised and converted to plain language and two new instruction sheets in plain language were developed. All the proposed plain language forms were circulated for statewide comment and revised in response to the comments received.

Features of plain-language forms that help make the forms more accessible to the user include:

- *Layout and style.* All information previously included in the caption is now located in the body of the form. When possible, direct address pronouns (such as “you”) are used in place of legal terms to make the text easier for self-represented parties to understand. The person filling out the form is guided through the form by prompts that explain the next step.
- *Form number and title.* The form number and title are prominently displayed in the upper-left corner, rather than after the caption, as in traditional Judicial Council forms. In cross-references to other forms, numbers are preferred over titles, as in federal tax forms, because people remember and refer to form numbers more easily than names. Some form titles have been modified to help parties understand the nature of the document.
- *Footer.* The address of the California Courts Web site is included in the footer to help users find information about small claims court and the forms.
- *Readability.* The text has been revised to be accessible to users at a sixth-grade reading level. The typeface has been changed to a more readable font and is larger than in many current forms. The language is simple and direct while preserving the legal intent. Numbers with a strong graphic presence make it easier to navigate the text.

Below is a brief discussion of each form.

Plaintiff’s Claim and ORDER to Go to Small Claims Court (form SC-100)

The following revisions to form SC-100 are recommended based on approximately six months’ experience with the new plain-language form that went into effect on January 1, 2005:

1. “Case Name” was added below “Case Number,” both of which are to be completed by the court clerk when the case is filed. This change was

made in response to concerns raised by court staff and a multiple filer that parties' names are not identified on the first page of the form, requiring additional time to flip to the second page to obtain this information. Having the case name on the first page will help the judicial officer sitting on the bench identify the case. Court clerks indicated that this information is needed as an additional check against the case number. The clerk would list only the first named plaintiff and defendant in this box.

2. "Instructions for the person suing:" was amended to instruct users that (a) copies of "all pages" of the form must be made, (b) a "court stamped" copy of the claim must be given to the defendant, and (c) no one "listed" (instead of the current wording "involved with this case") may serve the claim, in accordance with the statutory requirements for small claims service. (See Code Civ. Proc., §§ 116.340(a), 414.10 ["not a party to the action"], and 415.20.)
3. On page two of form SC-100, reference to plaintiff as "the person who is suing" would be expanded to include "business or public entity," in response to the suggestion of small claims advisors who were concerned that the form could mislead a plaintiff into thinking that only individuals could file a claim. In addition, reference to "home address" would be changed to "street address." "Phone" would be moved as far as possible to the end of the "Name" line in response to requests for more space to enter the names of the plaintiff and defendant, which can be long if the party is doing business under a fictitious name. "Plaintiff (*list names*)" must be completed at the top of pages 2 and 3.
4. Several small claims advisors expressed concern about the absence of fields for filling in the name and address of an agent or officer to receive service on behalf of a corporation, association, partnership, public entity, or other organization. Old form SC-100 (pre-2005) also did not include this information. The committee determined that this information would be more appropriate on the proof of service form, rather than on the claim form, and it has been added there. (See proposed plain-language form SC-104.)
5. The committee would increase fields on page 2 of form SC-100 to provide space for information about two plaintiffs and two defendants instead of one each, as is the case on the current form. This would respond to concerns expressed by court clerks and other members of the public about the need to attach an additional sheet (SC-100A) for additional plaintiffs and defendants, resulting in more pages and higher mailing costs. According to clerks, two plaintiffs or two defendants are

frequently included in small claims actions. This change to form SC-100 would not add additional pages to the current five-page form. Signature lines for two plaintiffs would be added to the bottom of page 3.

6. The venue provisions would be corrected to address errors and omissions as follows:
 - a. Item 5a(4) (5a(1) in the current form) would be put in the past tense to parallel the other items.
 - b. Item 5b would be corrected to follow the statutory language: “Where the buyer or lessee signed the contract” (See Code Civ. Proc., §395(b).)
 - c. Item 5c would be corrected to follow the statutory language: “Where the buyer signed the contract” (See Civil Code §1812.10.) The typo in the statutory reference was also corrected.
 - d. Item 5d would be corrected to follow the statutory language: “Where the buyer signed the contract” and “where the vehicle is permanently garaged ...” was also added. (See Civil Code §2984.4.)

In addition, the instruction at the beginning of item 5 would be changed from “*(check all that apply)*” to “*(check the one that applies)*.” As a result, only one zip code will be filled in under item 6. Item 5a would be rearranged so that the contract venue provision is located at the end of the list (moved from item (1) to item (4)), to avoid the perception that all the provisions under 5a are contract related. Other technical amendments were made to item 5.

The declaration under penalty of perjury on page 3 would be changed from “under the laws of the State of California” to “under California State law” to keep the text on one line while complying with the requirement of Code of Civil Procedure section 2015.5 to keep the statement in substantially the same form. Two signature lines would be provided to coincide with the number of plaintiffs that can be named on page 2.

“Information for the Defendant,” on page 4, would be amended to include information about when to file papers, whether the court provides a free interpreter (at least one court provides these services if available), and how to postpone the trial.

Clerks and members of the public have expressed concern that the current plain-language form SC-100 consists of five pages while the old (pre-2005) form was one two-sided sheet, albeit in very small type. The additional pages have increased mailing costs (60 cents instead of 37 cents by regular mail and more for certified mail if served by the court clerk). For frequent filers, the plain-language

form requires more toner and paper to prepare the form. More flipping of pages is required by clerks to process the current form. The form takes up more filing space in non automated courts. Address boxes that appeared at the top of the old form for mailing in window envelopes were removed, so clerks are now required to type that information.

Many of these concerns were considered when the plain-language form was adopted last year. The advisory committee believes that the benefits of the plain-language form in terms of access outweigh the efficiency of the previous form.

The first page of form SC-100 includes summons information for the defendant (also on the old form) as well as abbreviated instructions for the plaintiff (new) and the trial date under “Order to Go to Court.” The second and third pages consist of the claim to be completed by the plaintiff, including expanded space to describe the plaintiff’s claim in response to comments when the plain-language form was first developed. “Information for Defendant,” also on the original form and appearing on page 4, was simplified and streamlined and included on the fifth page in Spanish translation.

Plain-language form SC-100 was field-tested several times and the feedback was used to develop the current form. A greater number of form users should be able to understand and therefore comply with the instructions, lessening the staff time involved in assisting consumers who are unable to understand the information. The small claims plain-language forms can be reassessed again in the future, preferably after further field testing.

Other Plaintiffs or Defendants (form SC-100A)

This plain-language attachment to SC-100 would be revised to conform to changes made on SC-100. Reference to plaintiff as “the person who is suing” was expanded to include “business or agency.” “Home address” was changed to “street address.” If mail is delivered to a post office box, an individual or business would also complete the next line, “mailing address (*if different*).” “Phone” was moved to the next line, allowing the “Name” to be entered across the entire page in response to requests for more space because names can be long if the party is doing business under a fictitious name. A checkbox indicates additional plaintiffs or defendants should more than four plaintiffs or four defendants be included in the action. The oath and space for two signatures were added to the bottom of the form.

Attorney Fee Dispute (After Arbitration) (form SC-101)

This form would be converted to plain language. The State Bar agreed with the proposed revisions.

Fictitious Business Name (form SC-103)

This form would be converted to plain language. The form instructs the user not to include a P.O. box for the business address. At the end of the form, an instruction on authorized business signatures was added just above the signature line (“Only the owner, president, chief executive officer (CEO), or other qualified officer can sign this form”). “Title” was added to the name line, to help the party properly complete the form.

Proof of Service (form SC-104)

This form would be converted to plain language. The Small Claims Act allows substituted service without a first attempt at personal service of the claim. (See Code Civ. Proc., §116.340.) Instructions and fields for filling in the names of persons authorized to accept service of process for various business entities were included on the form. This should address some concerns expressed by small claims advisors and clerks about the absence of these fields on the SC-100 claim form. Although some did not agree that the plaintiff should fill in this part of the proof of service form, which is to be signed by the server, the format follows that of the plain-language domestic violence form DV-250, which appears to be working well and was field-tested on self-represented persons.

Process servers like the current SC-104 form and have suggested a separate instruction sheet instead of the revised form. The plain-language SC-104 form can be reassessed in the future along with SC-100, preferably after further field testing in several formats.

Proof of Mailing (Substituted Service) (form SC-104A)

This form would be converted to plain language. It is attached to form SC-104 when the person who mails the documents is not the same person who personally delivered the documents to the served party. This form would most likely be used by service agencies. Commentators suggested that this form be incorporated into form SC-104. The committee attempted this but found insufficient room on form SC-104 and also concluded that the two signatures by different servers on one form would make the form confusing to self-represented parties.

What Is “Proof of Service?” (form SC-104B)

This is a new instruction sheet in plain language to explain the three methods of serving a small claims action: (a) personal service, (b) substituted service, and (c) mailing by the court clerk with a return receipt.

How to Serve a Business (form SC-104C)

This is a new instruction sheet in plain language and chart format to explain the methods of serving a (a) sole proprietorship; (b) partnership; (c) landlord; (d) city, county, or public agency; (e) state agency; (f) corporation or association; (g)

limited liability company, limited-liability partnership, or limited partnership; and (h) unknown business type.

Defendant's Claim and ORDER to Go to Small Claims Court (form SC-120)

This form would be converted to plain language. It conforms to the plaintiff's claim form SC-100, without the venue information, because it would be filed as a counter claim in the same case. The settlement demand required of the plaintiff (Code Civ. Proc. § 116.320(b)(3)) was made an optional item on this form because there is no comparable duty of the defendant under the statute. The instruction under item 8 advises that the defendant has "no right to appeal this claim" but further clarifies that the defendant "can appeal the Plaintiff's claim" if the defendant loses the case. A fee waiver instruction was left on the form because the defendant may not otherwise be aware that fees can be waived for qualified applicants. The "Request for Accommodations" instruction and logo have been added. The revised form was expanded from one to three pages.

Other Plaintiffs and Defendants (Small Claims) (form SC-120A)

This new form is the attachment sheet to form SC-120. It conforms to revised form SC-120. This page would be attached only if more than two plaintiffs or two defendants are included in the action, thereby eliminating the need for this additional page in most cases. A checkbox indicates additional plaintiffs or defendants should more parties be included in the claim. The oath and space for two signature lines were added to the bottom of the form. This form mimics form SC-100A, which is the attachment page for the plaintiff's claim.

Alternative Actions Considered

Although some commentators preferred the old small claims forms, the committee decided to proceed with this proposal. Although plain-language small claims forms are not statutorily required, people could be misled and confused by the current forms, resulting in frustration with the judicial system, as well as wasted time for both the parties and the courts. The new forms work better for self-represented parties.

Comments from Interested Parties

The proposed plain-language forms were circulated for statewide public comment in spring 2005. Twenty-seven comments from judges, court clerks, small claims advisors, process servers, attorneys, the State Bar Committee on Administration of Justice, and small claims litigants were received. Seven commentators agreed with the proposals, 16 agreed if modifications are made, 2 disagreed, and 2 did not state a position. Many suggestions for improving the forms were incorporated in the revised and new plain-language forms. A chart summarizing the comments and the committee's responses is attached at pages 33–92.

Staff from several courts (Superior Courts of Superior Courts of San Luis Obispo, San Mateo, San Diego, and Santa Clara Counties) requested that the name of the business and agent for service be listed on the claim form. Reasons for listing this information include the following: (1) it signals the plaintiff that there are special service requirements for suing entities; (2) the clerk needs this information when plaintiff requests that the court serve the business or agency by certified mail; (3) the clerk wants to review it because “nothing is worse than having a plaintiff appear at trial, only to be told that they didn’t serve the right person, and complaining to the clerk ‘nobody told me’ ”; and (4) it signals the sheriff or other process server that the defendant is being served through an agent and that the agent is not the defendant.

The committee did not agree that service information should be included in the claim. It is not part of the claim. Claimants will likely focus on service after the claim has been filled out. One reason for not including service information on the claim is that the claim would have to be amended if the agent for service listed on the claim were wrong or, after failed attempts at service, a different agent had to be served. The server should be given information about service independent of the claim form. The proposed new instruction sheets, *What Is Proof of Service?* (form SC-104B), and *How to Serve a Business* (form SC-104C), should help the parties understand service requirements or seek help from the small claims advisor. The revised *Proof of Service* form, SC-104, should further clarify who is being served—the party or an agent for the party.

SC-104 was criticized by some, including a process server who is committee chair of the California Association of Photocopiers and Process Servers. He and others urge that the current form be retained and a separate instruction sheet developed. The committee believes that providing some instruction on the face of the form is important because the form is not drafted for the professional service provider. The form is also optional.

Other suggestions for improving form SC-104 were implemented by the committee, including substituting “server” for “I” to clarify that this is a form that the server, not the plaintiff, must complete. Some commentators did not agree that plaintiff should fill in the names of the party or the agent for service at the beginning of the form, which are then incorporated by reference and attested to by the server as having been served at the end of the form. However, the format follows that of the plain-language domestic violence form DV-250, which appears to be working well and was field-tested on self-represented persons.

Other commentators still believe that the plain-language forms, especially *Plaintiff’s Claim and ORDER to Go to Small Claims Court* (form SC-100) and *Proof of Service* (form SC-104), are burdensome and not an improvement over the shorter, “original” versions of the forms as discussed earlier in this report. The

committee recommends that form SC-104 be field-tested in the future as resources permit, along with additional field testing of form SC-100, in several formats including separate instruction sheets, and that changes be made as appropriate.

Implementation Requirements and Costs

In last year's comments to the first proposed plain-language forms, several courts indicated that some retooling of their existing case management systems would be required. Because the information to be filled out on the current forms and the proposed new plain-language forms are substantially the same, courts' case management systems should not require significant further changes. The longer forms will require additional copying and mailing costs, as well as storage costs if the forms are not scanned and stored in an electronic medium.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2006:

1. Revise form SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*;
2. Revise form SC-100A, *Other Plaintiffs or Defendants*;
3. Revise in plain-language format and rename form SC-101, *Attorney-Client Fee Dispute (Attachment to Plaintiff's Claim)*, to *Attorney Fee Dispute (After Arbitration)*;
4. Revise in plain-language format and rename form SC-103, *Fictitious Business Name Declaration* to *Fictitious Business Name*;
5. Revise in plain-language format form SC-104, *Proof of Service*;
6. Revise in plain-language format form SC-104A, *Proof of Mailing (Substituted Service)*;
7. Adopt a new plain-language instruction sheet, form SC-104B, *What Is "Proof of Service?"*;
8. Adopt a new plain-language instruction sheet, form SC-104C, *How to Serve a Business*;
9. Revise in plain-language format and rename form SC-120, *Defendant's Claim and Order to Plaintiff*, to *Defendant's Claim and ORDER to Go to Small Claims Court*; and

10. Adopt new plain-language form SC-120A, *Other Plaintiffs or Defendants*.

The forms, which incorporate many thoughtful suggestions received from the public, will help guide the one-time user through the small claims process.

The texts of the new and revised forms are attached at pages 14–32.

Current forms are attached at pages 93–106 for comparison with the plain-language versions.

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 that? 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. (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.
- (2) Where the Plaintiff's property was damaged.
- (3) Where the Plaintiff was injured.
- 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 and
- I cannot file, and have not filed, 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 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 Order.* (*Civil Code, § 54.8.*)



“Small claims court” is a special court where claims for \$5,000 or less are decided. 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 any 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?

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 interpret for you in court. It is best if your interpreter is not a witness or listed in this case. Or ask the clerk for a list of interpreters. (Interpreters usually charge a fee.)

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. 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 bien inglés?

Pregúntele al secretario si la corte le puede dar un intérprete sin costo. Si no, lleve consigo a alguien— ya sea un pariente adulto o amigo— que pueda servirle de intérprete en la corte. O pide del secretario una lista de intérpretes. Es mejor que su intérprete no sea un testigo ni una persona que figure en este caso. (Los intérpretes en general cobran un honorario.)

¿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

This form is attached to Form SC-100, item 1 or 2.

1 If more than 2 Plaintiffs (person, business, or entity suing), list their information below:

Other Plaintiff's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Is this Plaintiff doing business under a fictitious name? Yes No If yes, attach Form SC-103.

Other Plaintiff's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Is this Plaintiff doing business under a fictitious name? Yes No If yes, attach Form SC-103.

Check here if more than 4 Plaintiffs and fill out and attach another Form SC-100A.

2 If more than 2 Defendants (person, business, or entity being sued), list their information below:

Other Defendant's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Other Defendant's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Check here if more than 4 Defendants and fill out and attach another Form SC-100A.

3 I understand that by filing a claim in small claims court:

- I have no right to appeal this claim *and*
- I cannot file, and have not filed, 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 all information in the court forms and attachments that I have filed for this case are true and correct.

Date: _____ *Type or print your name*  _____ *Sign your name*

Date: _____ *Type or print your name*  _____ *Sign your name*

This form is attached to Form SC-100, item 7. It tells the court that you are suing about a disagreement for \$5,000 or less in attorney fees and that you have tried to solve the disagreement through arbitration. Read page 2 of this form before you fill out this form. It explains your rights and some small claims terms.

1 How much money is in dispute? \$ _____ 2 You are (check one): [] Attorney [] Client

3 What did the arbitrator decide? (Check one):
a. [] The [] attorney [] client has to pay the other party this amount: \$ _____
b. [] Neither party has to pay the other party anything.

4 Write the date your Notice of Award was mailed here: _____ (Look at the bottom of the Notice.)

5 Why are you filing in small claims court now? (Check what you are asking the judge to do):
a. [] I want the court to confirm the award.
b. [] I want the court to correct the award because (check only one and explain below):
1. [] It contains an error in calculation or a mistake in describing someone or something in the award.
2. [] The arbitrator considered legal issues not allowed in this kind of hearing and the award can be corrected so it is fair.
3. [] It doesn't follow the rules for proper wording, information, or signature. (State Bar Rule 37.2 et seq.)

Explain: _____

c. [] I want the court to vacate (cancel) the award because (check only one and explain below):
1. [] It was obtained by fraud, corruption, or other unfair means.
2. [] The arbitrator was corrupt.
3. [] The arbitrator did something wrong that substantially hurt my case.
4. [] The arbitrator considered legal issues not allowed in this kind of hearing and the award cannot be corrected so it is fair.
5. [] The arbitrator unfairly refused to postpone my case or refused to consider important evidence that could help settle the dispute or conducted the hearing in another way that is not allowed.
6. [] The arbitrator knew of reasons why he or she could have been disqualified but did not disclose this information or did not disqualify himself or herself after I asked the arbitrator to do so at the proper time.

Explain: _____

[] Check here if you are asking for a new arbitration hearing.
d. [] I want a trial in small claims court to decide the fee dispute. (You can check this option only if you did not agree in writing to a binding award and you file this form within 30 days after the Notice of the Award.)

6 Did you (or your attorney) go to the arbitration hearing? [] Yes [] No (If no, explain below):

7 Attach a copy of the Arbitration Agreement and the Notice of Award (the arbitrator's decision). If you do not attach them, explain why here: _____

Date: _____ Type or print your name Sign your

Your name: _____

What is arbitration?

Arbitration is when a neutral person (an arbitrator) hears evidence from each side and then makes a decision (award) in your case. It is less formal than a trial in court.

Do I have to use arbitration for this dispute?

In most cases, yes. The only exceptions are:

- Parties who did not sign an agreement to arbitrate fee disputes *and*
- Clients who do not want to use arbitration. The attorney *must* use arbitration if the client asks for it.

What is *nonbinding* arbitration?

Nonbinding arbitration allows you *or* the other side to ask for a trial if either of you does not like the arbitrator's decision. You have 30 days after the notice is mailed to ask for a trial.

What is *binding* arbitration?

Binding arbitration means you and the other side gave up your right to a trial and must accept the arbitrator's decision. Your arbitration is binding if:

- Both sides agreed to binding arbitration in writing (after they disagreed about fees or costs) *or*
- 30 days or more have gone by since the nonbinding decision was mailed.

What if I agree with the award?

If your award is *nonbinding* and the other party does not file papers asking for a trial, the award becomes binding in 30 days.

If the award is *binding* and it says the other party owes you money, send a letter asking to be paid within a reasonable time. If you don't get paid, ask the court to "confirm" the award. This allows you to ask the court to order payment from the other party's paycheck, bank accounts or property. You must do this within 4 years after the notice of award. (See page 1, item 5a.)

What if I am not happy with the award?

You can ask the court to **correct** the award if it contains an obvious mistake in calculating a number or describing a person, thing, or property. (See page 1, item 5b.)

You can ask the court to **vacate (cancel)** the award if certain kinds of misconduct or mistakes happened in the arbitration. (See page 1, item 5c.)

You can reject the award and **ask for a trial** if you and the other party did not agree in writing to binding arbitration. (See page 1, item 5d.)

How long do I have to ask for a trial?

You have up to 30 days after the date the Notice of Award was mailed to you. Look for the date on the bottom of the notice. If you do not ask for a trial within 30 days, the award will become binding.

How long do I have to ask the court to vacate or correct the award?

In most cases you have up to 100 days after the date the Notice of Award was mailed to you. But if the other side asks the court to confirm, correct, or vacate the award, you must ask the court to correct or vacate the award before the court's deadline to answer the other side's request. Your Small Claims Advisor can give you more information on court deadlines.

Which court do I use for a trial or to confirm, correct, or vacate the award?

If a lawsuit has already been filed about the fee disagreement, file your papers in the same court and use same case number as in that lawsuit. (Before filing, you must serve all parties named in the claim.)

If no lawsuit has been filed about the fee disagreement, file in the court of the county where the arbitration was held and ask for a trial or ask the court to confirm, correct, or vacate the award.

- If the amount in disagreement is \$5,000 or less, file in small claims court. Use Forms SC-100 and SC-101.
- If the amount in disagreement is more than \$5,000, file in superior court. See Form ADR-105.

What if an attorney doesn't pay the award?

If an attorney doesn't pay the award, the State Bar can help you. If you don't receive the award in 100 days after receiving the Notice of the Award, or if the award becomes a final judgment, contact the State Bar at:

Mandatory Fee Arbitration
180 Howard Street, 6th Floor
San Francisco, CA 94105-1639
415-538-2020

More Information

California has special laws for arbitration of disputes over attorney fees. For more information, see:

- State Bar of California Web site: www.calbar.org
- Form ADR-105, *Information Regarding Rights After Attorney-Client Fee Arbitration*
- Cal. Business & Professions Code, §§ 6200–6206

This form is attached to: Form SC-100 **OR** Form SC-120

- 1** If you want to file a small claim and you are doing business under a fictitious name (“doing business as,” or “dba”) give the following information. *(Nonprofits and exempt real estate investment trusts do not have to file this form.)*

Business name of the person suing: _____

Business address (not a U.S. Postal Service P.O. Box): _____

Mailing address (if different): _____

- 2** The business listed in **1** does business as *(check ONLY one)*:

an individual

a corporation

an association

a limited liability company

a partnership

other *(specify)*: _____

You must follow the laws for fictitious business names. If you have not followed these laws, including filing a fictitious business name statement in your county and publishing this information in a local newspaper, the court can dismiss your case.

- 3** Name of county where you filed your Fictitious Business Name Statement (dba): _____

- 4** Your Fictitious Business Name Statement number: _____

- 5** Date your Fictitious Business Name Statement expires: _____

- 6** I declare, under penalty of perjury under California State law, that the information above is true and correct. **Only the owner, president, chief executive officer (CEO), or other qualified officer can sign this form.**

Date: _____

Type or print your name and title



Sign your name



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

Use this form to serve a **person, business, or public entity**. To learn more about proof of service, read Form SC-104B, *What Is Proof of Service?* To learn more about how to serve a business or public entity, read Form SC-104C, *How to Serve a Business*.

To serve a **business**, you must serve **one** of the following people:

- Owner (for a sole proprietorship or a business, form unknown)
- Partner (for a partnership) or general partner (for a limited partnership)
- Any officer or general manager (corporation or association)
- Any person authorized for service by the business (corporation, association, general partnership, limited partnership)
- Any person authorized for service with the Secretary of State (corporation, association, limited-liability company (LLC), limited-liability partnership (LLP), limited partnership)

To serve a **public entity**, you must serve **one** of the following people:

- Clerk (of a city or county)
- Chief officer, director, or agent authorized to accept service (of a public entity, agency, commission, board, district, etc.)

① a. If you are serving a **person**, write the person's name below:

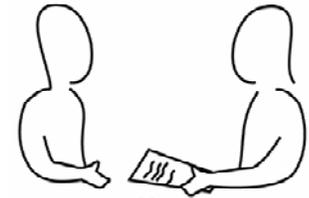
b. If you are serving a **business or public entity**, write the name of the business or entity, the person authorized for service, and that person's job title:

_____ Business or Public Entity Name Person Authorized for Service Job Title

② **Instructions to Server**

You must be at least 18 years old and **not listed in this case**. You can use personal or substituted service. Follow these steps:

- a. If you are using personal service, give a copy of the documents checked in ③ to the person in ①.
- b. If you are using substituted service, give a copy of the documents checked in ③ to:
 - A competent adult (at least 18) at the home of and living with the person in ① *or*
 - An adult (at least 18) who seems to be in charge where the person usually works *or*
 - An adult (at least 18) who seems to be in charge at the place where the person receives mail or has a private mailbox (not a U.S. Postal Service P.O. Box), if there is no known physical address for the person in ①.
 - THEN mail a copy of the documents to the person in ① at the address where you left the documents.
- c. After serving the documents do the following:
 - Complete and sign this form *and*
 - Give or mail your completed form to the person who asked you to serve these court papers.



③ **I served the person in ① a copy of the documents checked below:**

- a. SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*
- b. SC-120, *Defendant's Claim and ORDER to Go to Small Claims Court*
- c. Order for Examination (*This form must be personally served. Put a check mark next to the form that was served*):
 - (1) SC-134, *Application and Order to Produce Statement of Assets and to Appear for Examination*
 - (2) AT-138/EJ-125, *Application and Order for Appearance and Examination*

Note: The court can issue a civil arrest warrant if the served party does not come to court but **only** if the Order for Examination was personally served by a registered process server, sheriff, marshal, or someone appointed by the court.
- d. Other (*specify*): _____

Clerk stamps date here when form is filed.

Fill in court name and street address:
Superior Court of California, County of

Fill in case number and case name:
Case Number:
Case Name:



Case name: _____

4 Fill out "a" or "b" below:

- a.
-
- Personal Service:**
- I personally gave copies of the documents checked in ③ to the person in ① :

On (date): _____ At (time): _____ a.m. p.m.

At this address: _____

City: _____ State: _____ Zip: _____

- b.
-
- Substituted Service:**
- I personally gave copies of the documents checked in ③ (a, b, or d) to (check one):

 A competent adult (at least 18) at the **home** of, and living with the person in, ① or An adult (at least 18) who seems to be in charge where the person in ① usually **works** or An adult (at least 18) who seems to be in charge where the person in ① **receives mail**, or has a private mailbox (not a U.S. Postal Service P.O. Box), if there is no known physical address for the person in ①.

I told that adult (check one):

 "Please give these court papers to (name of person in ①)" Other (specify): _____I did this on (date): _____ At (time): _____ a.m. p.m.

At this address: _____

City: _____ State: _____ Zip: _____

Name or description of the person I gave the papers to: _____

After serving the court papers (check one):

- 1.
-
- I put copies of the documents listed in ③ in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person in ① at the address where I left the copies.

I mailed the envelope on (date): _____ from (city, state): _____
by leaving it at (check one):a. At a U.S. Postal Service mail drop, orb. At an office or business mail drop where I know the mail is picked up every day
and deposited with the U.S. Postal Service, or

- 2.
-
- I gave copies of the documents to someone else and asked that person to mail the documents to the person in ①, and I have attached that person's completed Form SC-104A.

5 Server's Information

Name: _____ Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Fee for service: \$ _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

- 6**
- I declare, under penalty of perjury under California State law, that I am at least 18 years old and not listed in this case and that the information above is true and correct.

Date: _____

Type or print server's name_____
Server signs here after serving

- This form is attached to Form SC-104. Use this form ONLY if you mailed the documents in ① and someone else personally gave them to the person, business, or public entity served.

Notice to Server

You must:

- Be at least 18 and **not listed in this lawsuit.**
- Fill out ①–⑥ of this form and attach it to Form SC-104.

① Documents served by mail:

- a. SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*
- b. SC-120, *Defendant's Claim and ORDER to Go to Small Claims Court*
- c. Other (*specify*): _____

② Name and address of the person, business, or public entity served:

- a. If you served a **person**, write the person's name and address below:

Name: _____

Address: _____
Street City State Zip

- b. If you served a **business or public entity**, write the name and address of the business or public entity, the person authorized for service, and that person's job title:

Business or Public Entity Name	Person Authorized for Service	Job Title
--------------------------------	-------------------------------	-----------

Address: _____
Street City State Zip

- ③** I put copies of the documents listed in ① above in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person, business, or public entity listed in ② and mailed the envelope by leaving it at (*check one*):

- a. A U.S. Postal Service mail drop *or*
- b. An office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

- ④** I mailed the envelope:

a. On (*date*): _____ b. From (*city, state*): _____

- ⑤** My address is: _____

- ⑥** I declare, under penalty of perjury under California State law, that the information above is true and correct.

Date: _____

Type or print server's name
 _____
Server signs here after mailing

What is “service”?

“Service” or “serving” is when someone—*not you or anyone else listed in this case*—gives a copy of your court papers to the person, business, or public entity you are suing. Service lets the other party know:

- What you are asking for
- When and where the trial will be *and*
- What the party can choose to do

There are strict rules for serving court papers. This form explains how to serve these forms:

- Form SC-100, *Plaintiff’s Claim*
- Form SC-120, *Defendant’s Claim*

How is service done?

This form tells you how to serve by *personal* service or *substituted* service.

Personal service means someone gives the papers directly to the person being sued or to the agent authorized to accept service (business or public entity).

Substituted service means someone gives the papers to an adult where the person lives, works, or receives mail (including a private post office box, but not a U.S. Postal Service P.O. Box).

What if the court papers do get not served?

The judge cannot hear your case unless the court papers were served correctly.

Can the court serve the papers for me?

Yes. You can pay the court to mail your claim to the person you are suing. But if the person you are suing or the person’s agent for service doesn’t sign the U.S. Postal Service mail receipt with his or her complete name, or if someone else signs the receipt, you will have to serve again using personal or substituted service.

Who can serve?

You can ask a friend, a process server, or the Sheriff. The server must be at least 18 and not listed in the case.

A “process server” is someone you pay to deliver court forms. Look in the Yellow Pages under “Process Serving.” The Sheriff (or Marshal if your county has one) can also deliver court forms. Ask the court clerk how to contact the Sheriff. Or look in the county section of your phone book under “Sheriff.” You must pay the server, unless you qualify for a fee waiver.

How is *personal* service done?

Ask someone who is at least 18 and not listed in this case to personally “serve” (give) a copy of your court papers to the person or the agent authorized to accept court papers for the person, business, or public entity listed on Form SC-104.

Give the server a separate *Proof of Service* form for each person, business, or public entity you are suing. And tell the server to:

- Walk up to the person to be served.
- Say, “These are court papers.”
- Give the person copies of all papers checked on Form SC-104, *Proof of Service*. If the person won’t take the papers, just leave them near the person. It doesn’t matter if the person tears them up.
- Fill out and sign page 2 of Form SC-104, *Proof of Service*.

How is *substituted* service done?

If you don’t want to use personal service or can’t find the person to be served, ask someone who is at least 18 and not listed in this case to serve the court papers.

Give the server a separate *Proof of Service* form for each person, business, or public entity you are suing. Tell the server to give the papers to:

- A competent adult (at least 18) at the home of and living with the person to be served *or*
- An adult who seems to be in charge where the person to be served usually works *or*
- An adult who seems to be in charge where the person receives mail (including a private mailbox, but **not** a U.S. Postal Service P.O. Box). *Note:* This is only for cases where the physical address of the person to be served is not known.

Then do the following:

- Write down that person’s name and say, “Please give these court papers to [*name of person to be served*].” If the person does not want to give his or her name, describe the person you served.
- Give that person copies of all papers checked on Form SC-104, *Proof of Service*. If the person won’t take the papers, just leave them near the person.
- Mail another copy of the papers (by first-class mail) to the person being sued at the same address where you left the papers.
- Fill out and sign page 2 of Form SC-104, *Proof of Service*.

What does the server do with the original Proof of Service form?

If a process server or Sheriff served the papers, he or she can file Form SC-104, *Proof of Service*, with the clerk. If the server used a different *Proof of Service* form, ask him or her to list each paper served on the form. Also make sure that the registered server will file the original directly with the court and will mail you a copy of the filed form. Take it with you when you go to court.

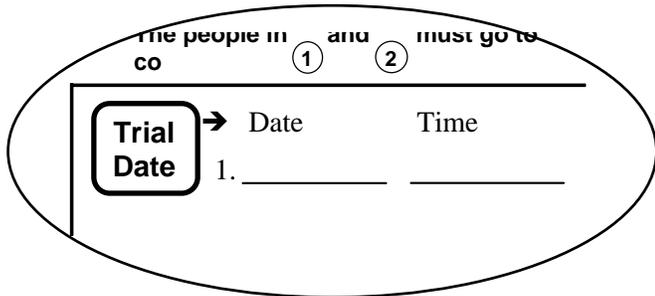
If a friend served the papers, tell him or her to give the completed form back to you. Keep a copy for your records and take the copy with you when you go to court.

You need to file the original completed *Proof of Service* form **5 days before** your trial.

When do the court forms have to be served?

- **If you are serving Form SC-100, Plaintiff’s Claim,** look at the trial date on page 1. Then, look at a calendar.

For *personal* service, subtract 15 days from the trial date (or 20 days if the person, business, or public entity is located outside the county). That’s the deadline for serving your small claims forms. But you can serve the forms before the deadline.



For *substituted* service, subtract 25 days from the date the server mailed a copy of the court papers served (or 30 days if the person, business, or public entity is located outside the county). That’s the deadline for serving your small claims forms. But you can serve the forms before the deadline.

If the person, business, or public entity to be served is outside California or if you are serving a different form, ask the Small Claims Advisor for more information.

- **If you are serving Form SC-120, Defendant’s Claim,** look at the trial date on page 1. Then look at a calendar.

For *personal* or *substituted* service, subtract 5 days from the trial date. That’s the deadline for serving your small claims forms if you were served at least 11 days before the trial. If you were served 10 days or less before the trial date, you must serve at least 1 day before the trial. But you can serve the forms before the deadline.

What if I can’t get the court papers served before the trial?

If you were not able to serve your claim (Form SC-100 or SC-120) before the deadline for service, talk to your Small Claims Clerk. Each county has its own rules.

If you already served your claim on some parties but not everyone you are suing, you may need to fill out and file Form SC-110, *Request to Postpone Small Claims Hearing*, at least 10 days before the trial date (or explain why you couldn't meet the 10-day deadline). Then give or mail a copy of this form to all other Plaintiffs and Defendants listed on your court papers.

The court may postpone your trial for 15 days or more.

Who do I have to serve?

If you are suing a person (or people)—not a business or public entity—serve each person you are suing. For example, if you were in a car accident and you are suing the owner and the driver of the car, you must list the names of the owner *and* the driver on your claim and serve both people.

Examples:

If the owner and driver are the same person:
Lee Smith, owner and driver

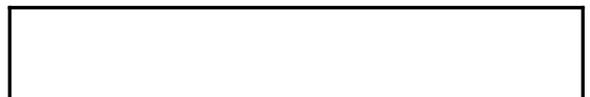
If the owner and driver are not the same person:
Lee Smith, owner and driver
Bob Smith, owner

If you are suing a business, an association, or a public entity, read Form SC-104C, *How to Serve a Business*.



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

To serve a business, an association, or a city, county, or public entity in small claims court, you must serve the *right* person and write the *exact* name of the business and the person to be served. Use this form to make sure you serve correctly, and follow the instructions on Form SC-104, *Proof of Service*.

	Sole Proprietorship (Only 1 owner)	Partnership	Landlord	City, County, or Public Entity	State of California or State Agency	Corporation or Association	Limited Liability Company (LLC), Limited Liability Partnership (LLP) or Limited Partnership (LP)	Unknown Business Type
Serve:	The owner	If you are suing a partnership , serve one of the partners. If you are suing a partnership and the partners, serve each partner.	The property owner <i>(If you can't find the owner, read Civil Code, §§ 1962–1962.7 or talk to the Small Claims Advisor to see if you can serve the manager.)</i>	City or county clerk, chief officer or director of public entity, or agent authorized to accept service <i>Note:</i> • <i>Before you sue, you must first file a claim with the public entity.</i> • <i>You cannot sue a federal agency in small claims court.</i>	Agent authorized to accept service	Agent for service listed with Secretary of State or any corporate officer (president, vice-president, secretary), chief executive officer (CEO), or general manager	Agent for service listed with Secretary of State To serve a limited partnership, you can also serve the general partner.	Someone who seems to be in charge of the business during normal business hours
Write on your Proof of Service form:	Business name Owner's name and job title	Partnership name Name of partner, general manager, or agent for service and job title	Business name (if there is one) Owner's name and job title	Name of city, county, or public entity Name of city clerk, county clerk, chief officer, or agent for service and job title	Name of the agency you are suing, name of agent for service	Corporation name Name of corporate officer or agent for service and job title	Company or partnership name Name of agent or partner for service, and job title	Business name, form unknown Owner's name and job title <i>(if you know it)</i>
Check that you have the exact names of the owner and business with:	<ul style="list-style-type: none"> County Clerk—Recorder's Office (Ask to see the fictitious business name statement.) <i>Your county's Web site may have this information. Check: www.csac.counties.org.</i> City Clerk's Office (Ask to see the business license. <i>Your city's Web site may have this information.</i>) 		County Tax Collector	Call the city or county clerk. (See the Government pages of your phone book.) California Secretary of State Web site: www.ss.ca.gov/executive Search under "California Roster."	California Attorney General's Office Call: 1-800-952-5225	California Secretary of State Web site: www.ss.ca.gov/business Search under Corporation, LP and LLC. Or call: 916-657-5448 OR County Clerk—Recorder's Office (Ask to see the fictitious business name statement. <i>Your county's Web site may have this information.</i>) OR City Clerk's Office (Ask to see the business license). <i>Your city's Web site may have this information.</i>	Try the other resources listed on this page to see if they know more about the business's organization type, such as corporation or sole proprietorship.	



Need help?

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

Clerk stamps date here when form is filed.

Notice to the person being sued:

- You are being sued by the person you are suing.
- You 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:

- La persona que ha demandado lo está demandando a usted.
- Tiene que presentarse a la corte en la fecha de su juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte puede 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

Fill 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:

- *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:

Defendant (list names): _____

1 The Plaintiff (the person, business, or public entity that sued first) 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-120A.

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

2 The Defendant (the person, business, or public entity suing now) 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-120A.

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

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

a. Why does the Plaintiff owe the Defendant 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-120, Item 3" at the top.



Case Number: _____

Defendant (list names): _____

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

5 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:

6 Are you suing a public entity? Yes No
If yes, you must file a written claim with the public 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.

7 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.

8 I understand that by filing a claim in small claims court:

- I have no right to appeal this claim. But I can appeal the Plaintiff's claim if I lose.
- I cannot file, and have not filed, more than two small claims cases for more than \$2,500 in California during this calendar year.
- If I do not have enough money to pay for filing fees or service, I can ask the court to waive those fees.

9 I declare, under penalty of perjury under California State law, that the information above is true and correct.

Date: _____ Defendant types or prints name here Defendant signs here
Date: _____ Second Defendant types or prints name here Second Defendant 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 Order. (Civil Code, § 54.8.)



Need help?

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

This form is attached to Form SC-120, item 1 or 2.

1 If more than 2 Plaintiffs (person, business, or public entity being sued), list their information below:

Other Plaintiff's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Other Plaintiff's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Check here if more than 4 Plaintiffs and fill out and attach another Form SC-120A.

2 If more than 2 Defendants (person, business, or public entity suing), list their information below:

Other Defendant's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Is this Defendant doing business under a fictitious name? Yes No If yes, attach Form SC-103.

Other Defendant's name: _____

Street address: _____ Phone: (____) _____

City: _____ State: _____ Zip: _____

Mailing address (if different): _____

City: _____ State: _____ Zip: _____

Is this Defendant doing business under a fictitious name? Yes No If yes, attach Form SC-103.

Check here if more than 4 Defendants and fill out and attach another Form SC-120A.

3 I understand that by filing a claim in small claims court:

- I have no right to appeal this claim, and
- I cannot file, and have not filed, 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 all information in the court forms and attachments that I have filed for this case is true and correct.

Date: _____  _____
Type or print your name *Sign your name*

Date: _____  _____
Type or print your name *Sign your name*

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Allison Gathano Law Librarian/Small Claims Advisor Kings County Hanford	AM	N	<p><u>SC-104</u></p> <p>(1) Do we really need pictures on court forms?</p> <p>(2) The Proof of Service has too much on it. You have an instruction sheet--why print it on the Proof of Service form too?</p>	<p>Pictures on the domestic violence forms were field-tested. Pictures help self-represented parties understand the form, and they appear to find them helpful.</p> <p>Sufficient concern has been raised about the SC-100 form and SC-104 form (see committee responses to other SC-104 commentators below) to warrant further review of the forms for comprehension and streamlining. The committee recommends that the revised forms be adopted by the Judicial Council, effective January 1, 2006, but that they be field-tested again for comprehension in several formats including (1) the original two-page form, (2) the current revised form, and (3) a streamlined form with separate instruction pages. Further revisions can be made after field testing.</p>
2.	Ronald Janda Small Claims Litigant Byron	AM	N	<p><u>SC-100</u></p> <p>I am glad to see changes to the Small Claims Forms are already being made. I filed a claim in</p>	<p>Several commentators expressed concern about the new plain-</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>February 2005, and I had a terrible time with filling out the SC-100 and SC-104. I have a Master's degree and I found these forms to be awful. The changes now proposed look like they will be helpful.</p> <p>Another criticism I have is with filing page 5 of 5 of the SC-100 when the Defendant is knowingly non-Spanish-speaking. I tried to file the claim without page 5 and the court would not accept the form. I had to make another trip to the court which was very inconvenient when they close at 3:00PM and I work out of town.</p> <p>There also has to be another way to streamline the form so less paper is used—what a waste of resources.</p>	<p>language forms. These include concerns that the new SC-100 form is not user-friendly, requires more assistance from staff to complete the form, contains too many pages (compared with the old two-page SC-100 form, which had very small type), intimidates the person filling out the form, uses more resources for copying the five pages, and takes up extra space in court files, among other concerns.</p> <p>The intent of the new forms is to help the unrepresented small claims litigant who is unfamiliar with the court system file a one-time claim. The summons information for the defendant and general instructions for the plaintiff are on the first page of the SC-100 form, with questions to be answered on the following two pages in larger type, white space, and prompts to help lead the plaintiff through the form. The instructions for the defendant in English at the end of the form were significantly simplified from the</p>

SPR05-10
Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
					<p>original form, and a Spanish translation was added on page five.</p> <p>The new SC-100 form was field-tested by small claims litigants several times. The result was that the new form is easier to understand. However, sufficient concern has been raised about the SC-100 form and SC-104 form (see responses to SC-104 commentators above and below) to warrant further review of the forms for comprehension and streamlining. The committee recommends that the revised forms be field-tested again for comprehension in several formats including (1) the original two-page form, (2) the current revised form, and (3) a streamlined form with separate instruction pages.</p> <p>As part of the review process, the committee recommends exploring whether there might be a more economical means of giving Spanish-language instructions to the Spanish-speaking defendant.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
3.	Anita Wilcox Small Claims Advisor San Luis Obispo County San Luis Obispo	AM	N	<p><u>SC-100</u> <u>Page 2 of 5</u></p> <p>As expressed in your comments, one of the primary concerns advisors have with this form is that there is little room to list agent for service information for the defendant that is a corporation, LLC, Association, etc.</p> <p>In the interests of economizing on space, I would eliminate the word “street” on the address portion and eliminate the mailing address altogether on both address sections for plaintiff and defendant information.</p> <p>Rather than having a listing for a 2nd plaintiff, I propose that use this space for the following information: “If the plaintiff is a business: Read form SC-150 Information for Small Claims Plaintiff to see who can appear in court.”</p> <p>Rather than dedicating space to a 2nd defendant I would prefer that plaintiff be able to list the service agent information.</p> <p>I suggest the following: “If the defendant is a business (corporation,</p>	<p>Several commentators suggested that the agent for service of process be listed on the SC-100 claim form.</p> <p>Service information is not part of the claim. Claimants will likely focus on service after the claim has been filled out. The claim would have to be amended if the agent for service listed on the claim is wrong or failed attempts at service requires service on a different agent. The server should be given information about service independent of the claim form.</p> <p>The proposed two new instruction sheets “What Is Proof of Service?” (form SC-104B) and “How to Serve a Business” (form SC-104C) should help the parties understand service requirements or seek help from the small claims advisor. Revised Proof of Service form SC-104</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Since the SC-100 is only 5 pages, I propose that the last page, page 6, contain dismissal form. Our county has its own version that appears on the back of the SC-100. Why not make the dismissal form Page 6 of 6. I have attached a copy. [See attachment at page A3.]</p> <p><u>SC-104</u> In the introductory section I would propose to delete the officer titles and insert (for a corporation, LP/LLP, Association, etc).</p> <p><u>SC-104B</u> Delete the section on page 2 of 2. The SC-110 is a request for postponement when service has already been made not for lack of service. I believe this will clog the courts with unnecessary requests. In my county, the judge reads all the requests for postponement submitted.</p> <p>As alternative, I would state the following: What if I can't get the court papers served before the trial? Call the clerk of the court to arrange a new court date then ask the small claims advisor for information on other methods of service.</p>	<p>The committee believes that a dismissal form should be kept on a separate page. Otherwise there will be too much information for the plaintiff and defendant to wade through on SC-100. Then the form may overwhelm the parties or become confusing.</p> <p>The committee agreed and made this change. The statement under bullet two is now parallel with the other bullet points. [A similar comment was made by commentator No. 19, below.]</p> <p>Code of Civil Procedure section 116.570 is silent on the distinction between a request for a trial postponement when service has, and when it has not, been made. Committee members agreed that, in practice, courts do not require filing of form SC-110 for a "reset" when service was not made on any of the parties. The reset date is filled in on page one of form SC-100 or form SC-120. The committee</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				[Comments made directly on the forms are attached at pages A1-A5]	amended reference to form SC-110 to clarify that it should be mailed only to other parties that have been served. [See also comment Nos. 10, 19.]
4.	Donna Small Claims Advisor San Diego County El Cajon	Not stated	N	<p><u>SC-100</u> The revised form requires the court to provide unnecessary additional paper work, as the additional defendant/plaintiff claims are included on a separate page. It is a waste of paper and court resources.</p> <p>Question 5 refers to “Civil Code Section 1812.19.” I don’t believe there is such a section in the civil code.</p> <p>Additionally, question 4 states that the plaintiff “must” ask the defendant, in person, in writing, by phone, to pay before the plaintiff sues. I am unaware of any actual legal requirement for demand of payment.</p>	<p>The commentator is looking at current form SC-100. The proposed form that circulated for comment has space for two plaintiffs and two defendants, which should suffice for most claims, eliminating the need to attach an additional page.</p> <p>This was corrected on the proposed form that circulated for comment.</p> <p>Code of Civil Procedure section 116.320(b)(3) states that the claim form must include “the plaintiff, where possible, has demanded payment” or possession of property. The form also asks, “Have you done this? If no, explain why not.” A settlement demand can conserve party and court resources if it helps achieve</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
					settlement. [See also commentator No. 19.]
5.	Hon. Kathleen R. O'Connor Judge Superior Court of California, County of Yuba Marysville	A	N	Agree with proposed changes. General Including the case name on the 1st page is much more efficient.	No response required.
6.	Sandra Mason Director of Civil Operations Superior Court of California, County of San Luis Obispo San Luis Obispo	AM	N	SC-100 Page 1, format, adjust the box with the case number and name so that more room for the case name and less for case number. There is not enough room for a case name as shown. SC-104B Suggestion: Add an instruction sheet in Spanish as well as English.	The committee agreed and made this change. The committee agreed to put this suggestion on its work plan and will pursue it as resources permit.
7.	Dean Zipser, President Orange County Bar Association Irvine	A	N	Agree with proposed changes.	No response required.
8.	Superior Court of California, County of Los Angeles Los Angeles	A	Y	Agree with proposed changes.	No response required.

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
9.	Hon. Mark S. Borrell Commissioner Superior Court of California, County of Ventura Ventura	A	N	Agree with proposed changes.	No response required.
10.	Patti Morua-Widdows Court Program Manager Superior Court of California, County of Ventura Ventura	AM	N	<u>SC-104B</u> Where the question is asked, “What if I can’t get the court papers served before trial?” – need to add language to the second paragraph starting with “If the matter should be reset...”	See committee’s response to commentator No 3, above. The committee corrected this section. [See also commentator No. 19.]
11.	Tina Rasnow Senior Attorney/SHLA Center Coordinator Superior Court of California, County of Ventura Ventura	AM	N	<u>SC-100</u> Some courts do provide Spanish language (or perhaps other commonly spoken language) interpreters on an “as available” basis in small claims court without charge.	The committee amended this section on the “Information for Defendant” (page 4) by inserting, “ask the clerk if they can give you an interpreter for free.”
12.	Linda A. Gorham Court Manager Superior Court of California, County of San Francisco San Francisco	A	N	Agree with proposed changes.	No response required.
13.	Kathy Maderos Supervising Legal Clerk II Superior Court of California, County of Stanislaus	AM	N	<u>General</u> Too much information to read. If purpose was to make easy to read, the amount of wording is overwhelming. Plaintiffs & Defendants require	Please see committee response to commentator No. 2, above.

SPR05-10
 Small Claims Plain-Language Forms
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	Modesto			much more assistance & question more with current plain language form. Condensing instructions <u>is</u> needed. Format is <u>NOT</u> reader friendly.	
14.	Sue DuFour Supervising Legal Clerk II Superior Court of California, County of Stanislaus Modesto	AM	N	<p><u>SC-100</u> Plaintiffs who have used the old SC-100 have complained about using the [new] Plain – Language form.</p> <p>Too much information for plaintiff to absorb.</p> <p>Case name on page 1 of SC-100 should indicate short title.</p> <p><u>SC-104</u> Can be confusing, e.g., proof of service form goes back and forth, directing person to go from numbered item to numbered item.</p>	<p>Please see committee response to commentator No. 2, above.</p> <p>The committee increased space for the case name. Because the clerk will fill in the case name, the clerk can fill in the short title, if so desired.</p> <p>Please see committee response to commentator No. 1, above. Referring to numbered items is consistent with the format used in plain-language form SC-100, which was field-tested. This method is also used on the domestic violence proof of service form, DV-250, which is working well. However, the committee recommends that</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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					form SC-104 be independently field-tested on small claims litigants.
15.	Deborah Decker Administrative Analyst Superior Court of California, County of Butte Oroville	AM	N	<p><u>General/SC-100</u> Suggest that instruction language be on a separate page rather than included on and within each page.</p> <p>The inclusion (of the instruction language) creates bulk and requires use of increased resources: more paper, toner, extra copies for litigants if they didn't create their own (& they never do), and more file space.</p> <p>The inclusion makes the form difficult for clerk &/or court to find the pertinent information quickly. Clerks/court need to look at page 2 for the parties.</p> <p>The flow of the form is confusing: it starts at the top addressed to the defendant but the bottom is really addressed to the Plaintiff. It is trying to be ALL things to ALL people at the same time and on the SAME PAGE, & each subsequent page.</p> <p>Litigants (based on comments/reactions regarding previous "plain language" versions of forms) do NOT require LESS resources, (i.e.</p>	<p>Please see committee response to commentator No. 2, above. Field testing of a form with a separate instruction sheet for plaintiff is one of the formats recommended for field testing.</p> <p>Information for defendant at the top of the page will be required because this is the summons warning, which was also on old form SC-100. Instructions for defendant should be served with the claim to assist the unrepresented defendant who is served with a lawsuit. The defendant instructions were rewritten in plain language, and simplified, and the font size was increased. An additional sheet with Spanish translation was added.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>assistance) and the net result is, therefore, NOT a more accessible, less confusing court system. So, whatever the intent or goal was it wasn't accomplished.</p> <p>AGAIN, suggest that the instruction type language be on a different page.</p>	
16.	Timothy Gee Management Analyst III Superior Court of California, County of San Mateo Redwood City	AM	Y	<p>1. <u>SC-100</u> [Comment 4 on page 3] Identifying the Agent for Service of Process is needed on this form when the plaintiff requests the Court to serve the defendant (business or agency) by certified mail. If it is on the Proof of Service (SC-104) as suggested, the clerk's office would not have the necessary information to execute service.</p> <p>2. <u>SC-100</u> Reference is made on the bottom of page 2 of the form (page 8 of the proposals) to MC-30 to be used as an additional page for SC-100. There are 2 issues that we recommend changing:</p> <p>a. Forms MC-30 and MC-31, while are 2 separate forms, are on the same page. This has been and is confusing to litigants, especially pro pers, when they look to the form expecting to see a blank additional form, also see a Declaration. The two forms should</p>	<p>Please see response to commentator No. 3, above.</p> <p>This suggestion was recently implemented.</p> <p>Forms MC-30 and MC-31 are now on separate sheets, effective July 1, 2005.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>be 2 separate forms and not back-to-back as they currently are. Making this change will also facilitate having the forms in electronic fill-in-format.</p> <p>b. Reference on SC-100 should be to form MC-31 since that is the form that a litigant needs for additional space and not MC-30, which is the Declaration form. Making this change and the one in “b” above would eliminate the confusion and facilitate automating the forms.</p> <p>3. <u>SC-100—Information for the Defendant</u> (page 10) The following additional language should be added at the bottom of the section on “What if I need more time?”: “Defendant may contact the Small Claims Court for the procedure to request a postponement. A fee is required for the postponement unless a fee waiver is granted.”</p>	<p>The committee agreed and made this change on forms SC-100 and SC-120.</p> <p>This section has been reworked many times to be consistent with Code of Civil Procedure section 116.570. The committee agreed to add language to contact the court clerk. Insufficient space on the form did not allow for the additional information that a request to postpone must be filed 10 days before the hearing date unless good cause is shown. The defendant can be charged a postponement fee only under bullet one, not under the circumstance cited at the second bullet. Therefore, this general</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>4. <u>SC-104 — Proof of Service</u> (page 16) Suggest removing the graphic or get a better one.</p> <p>5. <u>SC-104A — Proof of Mailing</u> (Substituted service) page 18, number 3. Suggest removing multiple name and address of each person, business or agency served. There should only be one proof of mailing (substituted service) for each defendant served rather than one proof of service with multiple parties.</p> <p>6. <u>SC-104B—What Is “Proof of Service”?</u> (Page 20) Subheading: What if I can’t get the court papers served before the court trial? Suggest changing the text to apply to multiple defendants so it reads: <i>“What if I can’t get the court papers served on the opposing party/parties before the trial?” You must let the court clerk know that you were not able to serve your claim (SC-100</i></p>	<p>statement could be too broad.</p> <p>This graphic is in the public domain and not copyrighted. It is gender and race neutral. However, in the proposed field test (see committee response to comment No. 2), we can also ask for response to the graphic.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed in part. Apparently procedure varies in different courts and, in some, the court would proceed to trial with the parties who have been served.</p> <p>The form was amended to advise the party to check with the small claims clerk under these circumstances.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p><i>or SC-120) on any of the opposing party/parties in time before the trial. . . .”</i></p> <p>All parties need to be served before the matter can usually proceed. Failure to complete service will, in most cases, result in a continuance. Making this change will let the filing party know that they must file SC-110 even if there is one opposing party that had not been served.</p> <p>7. <u>SC104B — What Is “Proof of Service”?</u> Page 20—When do the court forms have to be served? (page 2 of 2)</p> <p>The time for service of the defendant’s claim is not the same as the plaintiff’s claim. See Code of Civil Procedure section 116.340(b)—15 days for in-county resident, 20 days for out-of-county resident; and Code of Civil Procedure section 116.360—5 days for service on Defendant’s Claim for both personal and substituted service.</p> <p>8. <u>SC-120—Defendant’s Claim</u> Page 22—Change the heading for the defendant’s claim cover sheet, page 1, so that it is identical in format to the plaintiff’s claim SC-100. There appears to be a change in font and/or style in the Defendant’s claim that does not look correct.</p>	<p>The committee agreed and made this change. [See also commentator No. 25.]</p> <p>The committee believes that the difference is a matter of spacing, with more space available on this form than on form SC-100. However, see also commentator No. 20, who asks for a different font.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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17.	Tony Klein Owner, Attorney Service of San Francisco Committee Chairman, California Association of Photocopiers and Process Servers San Francisco	N	N?	<p>General</p> <p>I want to acknowledge the thought and hard work the Judicial Council has put into these small claims forms. What a project.</p> <p>I find the new “Plain Language” forms cumbersome and difficult to deal with as a process server, especially having to copy them. I always copy an extra set because I need to keep a master in case I sub serve a defendant, so therefore I’m copying at least 5 extra pages instead of one. But I know they are probably here to stay, so I’ll try to suck it up and stop complaining. It’s a good thing the Sierra Club prevailed upon us to copy legal documents for filing and service on recycled paper a few years ago. Otherwise we’d really be denuding our forests!</p> <p>I also understand that the goal is to make these forms “accessible to users at a sixth grade reading level and above,” but that of all the</p>	Please see response to commentator Nos. 1 and 2, above.

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>people I serve with both small claims and regular lawsuits, seldom do I encounter a defendant or witness that reads at a sub-7th grade reading level.</p> <p><u>SC-100—Plaintiff’s Claim and SC-120 Defendant’s Claim</u> I like the addition of the Case Name, but stylistically it should come before the Case Number, not after. Keeping the Plaintiff’s and Defendant’s names and addresses off the front page are a significant annoyance for me as a process server.</p> <p><u>SC-104—Proof of Service</u> <u>Page 1 of 2</u> There is no place for the Case Name on the form.</p> <p>There is no place for the date, time and Dept. number when the case will be heard so court staff won’t know at a glance when it is filed whether the proof is being filed timely, or whether it needs to go to court immediately.</p> <p>Items 1 and 2 is a fill-in statement for the plaintiff to state the plaintiff’s name, then the</p>	<p>The committee consulted with court clerks on this issue. They indicated that it would be easier to fill in the case number first.</p> <p>The committee agreed and added it to the first page.</p> <p>No court commented on this issue. The date and time of the hearing is on the paper being served. Duplicating it on the proof of service is not a legal requirement. Where cases are filed by case number, and in automated courts, this should not be an issue.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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				<p>name of the person or business being sued, then the person served, a business or agency, and title of the person the plaintiff is serving. Why is this information being requested from the plaintiff? Its apparent purpose is to cross-reference from back page, the server's declaration, to the front of the page, where the party or person served is indicated. Front to back, then back to the front, and repeat. Filling out the form will be a chore; reading it will be a nightmare; and filing and reviewing it by court staff will be a massive imposition.</p> <p>I just don't get how this is an improvement to the current SC-104 Proof of Service form. I'm confused, and I do this for a living. I can't imagine a nonprofessional getting it right. This new form is too confusing, and I urge you to keep the current SC-104 Proof of Service form.</p> <p>The current SC-104 Proof of Service form can be explained in an instruction sheet similar to the one proposed in the Instructions to the Server in items 3 and 4 in the new SC-104 and as in the new SC-104B. With a few more details, the current form can be explained in the detail for what you are trying to accomplish with the new SC-104 form.</p>	<p>The committee has reworked the information on this form. It follows the format of domestic violence proof of service form DV-250, which is working well.</p> <p>Because the form is not geared to the professional service provider, the committee believes that instructions are needed on the form to assist the self-represented litigant. The form is optional, and professional service providers can use their own form if they wish. The committee recommends that</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>Because Items 1 and 2 are directed to be filled in by the plaintiff, the proof of service is being partially filled in by 2 persons, the plaintiff and the server, but signed by only one. If the plaintiff doesn't fill it in, and it is blank, the server can't sign it because it isn't complete. It imparts an obligation on the plaintiff to partially complete the proof of service instead of the server. The information in Items 1 and 2 are not being requested from anyone other than the plaintiff.</p> <p>The name of the person served on behalf of another is unknown until service occurs, as is the title of the person with whom the documents were left. That means that the plaintiff must fill in the information after the service occurs, then provide the form to the process server. This makes no sense.</p> <p>Furthermore, the "party served" and "person</p>	<p>the form be field-tested after its approval. The committee also put on its work plan for review a suggestion that a separate proof of service form be drafted for different types of entities (e.g., individual, corporation, etc.)</p> <p>The committee reworked the information on this form. It follows the format of domestic violence proof of service form DV-250, which is working well. [See also commentator No. 16, above.]</p> <p>The committee agreed and changed the form.</p> <p>The committee agreed and made</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>served” are different when sub-serving a corporation or partnership. The mailing is not proper unless it is mailed to the person served on its behalf, and therefore must be directed to the corporate office or general partner for the defendant. The proof of Service does not properly reflect that service because the mailing is being directed to the person served as the person the documents were left with, not the corporate officer or general partner. Granted, it’s a fine point, but simplifying the form, and by extension, simplifying process serving compromises the service itself.</p> <p>The admonition that an Order to Produce Statements of Assets or an Order of Examination in “4c” is a noble effort but only confuses the form. Is this admonition to the plaintiff or the server who is signing the form? It does not belong under the server’s statement “I served the person in 2 a copy of the documents checked below.”</p> <p><u>Page 2 of 2</u> Item “8a” calls for a date and time and place of personal service. Item “8b” calls for the same thing, but makes a presumption that the server made the statement “These are court papers.” As a server, I make any number of statements when</p>	<p>this change. (It was also missing on the old SC-104 form.)</p> <p>The form is not geared to the professional service provider. The committee believes that the admonition should be retained, although it was slightly reworded and moved to the front of subdivision c.</p> <p>The committee believes that the description “court papers” is sufficient. It agreed that the statement should be consistent with the form SC-104B instruction, and</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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				<p>I am serving process, and generally don't say "These are court papers." I couldn't and wouldn't sign this document under penalty of perjury unless I did. Therefore, I would have to cross it out and make an alternative depiction of the conversation I did have, thus making this form even more cumbersome. A server does not have to do that now on any form proof of service. Such a statement should not be included in a proof of service form. It is a statement inconsistent with the directive SC-104B under the heading "How do I do substituted service?" where you direct the server to say: "Please give these court papers to [name of person to be served]."</p> <p>Furthermore, telling someone that "These are court papers" does not fulfill a statutory requirement for service. The server must state the general nature of the documents and inform the person served who is being served. For instance, if a server were sub-serving your co-worker with process and handed them to you and only said "These are court papers," would that constitute valid service?</p> <p>That statement is not in item "8a" which might constitute sufficient notice, but again, if the server didn't say those particular words, he or</p>	<p>it made that change.</p> <p>The committee agreed and changed the form to read: "Please give these court papers to (name of person in 1)." (See item 4b on form SC-104.)</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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				<p>she should not sign it.</p> <p>Unfortunately, this form does not accomplish the goal in making it easier to use. In an effort to make process serving simpler for those not regularly familiar with the system, this form only makes it harder. It will especially make it harder for the court personnel to read and quickly determine whether service was proper.</p> <p><u>SC-104A—Proof of Mailing (Substituted Service)</u> <u>Item 2, Documents served by mail</u> includes an Order to Produce Statements of Assets and an Order of Examination. Neither of these documents may be served by substituted service because they can result in the person served to be held in contempt of court and arrested. It's misleading to include them on this form.</p> <p>Item 3 provides a list from a through f of names and addresses of those served by mail. Why so many? I'm assuming that they provide for service on multiple defendants, but doesn't this run contrary to the concept of having one proof of service per defendant served?</p>	<p>The committee believes that the changes simplify the form. The committee also recommends field testing the form after its approval.</p> <p>The committee agreed and deleted this item.</p> <p>The committee agreed and changed the form to provide information on one defendant only.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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18.	Alan Slater, Clerk, by Sandy Smith, Deputy Civil Manager Superior Court of California, County of Orange Santa Ana	AM	N	<p>SC-100 <u>Page 4, – “What if I need more time?”</u> There is no reference to the Judicial Council form, Request for Postponement. A copy of the form must be mailed to the other parties. If the request is by letter, as suggested, then a copy of that letter should be sent to all other parties. (Code Civ. Proc., §116.570)</p> <p>SC-104—Proof of Service</p> <ol style="list-style-type: none"> 1. Server or plaintiff must fill in case number; not clerk. Add case name under case number. 2. Section 4: add: <input type="checkbox"/> SC-101 (if Fictitious Business Statement is being served). 3. Is form optional or mandatory? 4. Overall: The form is confusing. <ol style="list-style-type: none"> 1. Top information: There should be direction to tell me to go to (2) if I am serving a business. 	<p>The committee agreed and added a reference to form SC-110.</p> <p>The committee agreed and made these changes.</p> <p>Because form SC-101 is already attached and made a part of SC-100 or SC-120, the committee did not agree that it should be added as a separate item of service on this form.</p> <p>The committee agreed and added the “optional” designation in the footer of the form.</p> <p>The committee agreed and amended the form.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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				<p>2. What Is Your Name? This is confusing since the server’s name is on page 2. Page 2, (8), implies that it should be the name of person to be served.</p> <p>3. Section (2) is written in the past tense as if service was completed. I don’t think that was the intention since the server must complete the next page.</p> <p>4. The Instructions to Server, regarding who is eligible to do service, should be at the top. The current format leads the plaintiff into filling the form out.</p> <p>5. (8)b. Since this is simplified language, would it be better to say “adult in charge” rather than “responsible adult”? Missing period after “a.m.”</p> <p>6. (8) b-2: Change sentence to: “<input type="checkbox"/> I asked someone to mail the documents to the person in #2 to the address below.” After this sentence, add a two-line condensed version of SC-104A and eliminate form SC-104A.</p>	<p>The committee agreed with comments 2 and 3. The form has been reworked.</p> <p>The committee reworked the form, and these instructions are now closer to the top.</p> <p>After much discussion, the committee changed the instruction to read “competent adult (at least 18), at the home of, and living with the person in 1.”</p> <p>The committee agreed and made this change. The committee attempted to incorporate information from SC-104A into form SC-104. However, this rendered form SC-104 crowded and confusing, especially with the two</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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				<p><u>SC-104A—Proof of Mailing (Substitute Service)</u> Eliminate this form. If the form remains, then:</p> <ol style="list-style-type: none"> 1. Top section is not necessary. Information is on form SC-104. 2. (2)c does not apply to substitute service. An Order for Appearance must be personally served. 3. (3) Too many lines. There is one proof of service per defendant. Therefore, there would only be one mailing. 4. Is form mandatory or optional? <p><u>SC-104B—“What Is Proof of Service”?</u> <u>How do I do personal service?</u> Second sentence should state: “Proof of Service form for each person, <u>business or agency</u> you are suing.”</p> <p><u>SC-104C—How to Serve a Business</u></p>	<p>different verifications.</p> <p>The committee disagreed. The information is directed to a server who is not the same person as on SC-104.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made the form optional.</p> <p>The committee agreed and made this change.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>1. The right column should be labeled as “Guidelines for Naming a Business.”</p> <p>2. The suggested naming conventions should easily fit into the areas provided on the Plaintiff’s Claim. For example: Pat K. Smith and John L. Smith, individually and dba Best Dry Cleaners.</p> <p>Write the names on Page 2, (2) of the Plaintiff’s Claim and Order, as follows: Name: <u>Pat K. Smith ind. and dba Best Dry Cleaners</u></p> <p>Write the name of the next defendant in the next section as: Name: <u>John L. Smith ind. and dba Best Dry Cleaners</u></p> <p><u>SC-120—Defendant’s Claim and Order</u> Same comments as Plaintiff’s Claim and Order.</p> <p><u>General Comment:</u> Many of the new forms do not allow room for the Clerk’s name stamp. For example, we</p>	<p>The committee did not agree. Adding the proposed title would be inconsistent with the format of the form related to service on other types of businesses, a county or city, or state agency.</p> <p>The committee agreed in part. It has shown the naming convention in brackets the first time it is used on the form.</p> <p>The committee agreed that each defendant should be named on a separate line and has changed the example accordingly.</p> <p>The committee agreed to make changes conforming SC-120 to SC-100.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>typically stamp the Clerk of the Court's name above the Clerk's name like this:</p> <p>ALAN SLATER Clerk by, <u>Sandy Smith</u>, Deputy</p>	The committee reviewed the size of the stamp box on the proposed forms and found that they are consistent with guidelines for all JC forms. The committee did not want to change size on just these forms.
19.	Cristina Llop Director, Staff Attorney ACCESS Center Superior Court of California, County of San Francisco San Francisco	AM	N	<p><u>SC-100</u> <u>Page 1 of 5</u> Strange for people to have nothing to write on first page.</p> <p>Case Name: No one understands this.</p> <p><u>Page 2 of 5</u> <u>#2 [If any Defendant is on active military duty, write his or her name here:]</u> Will go unnoticed. Fine with me but not if it's important.</p> <p><u>Page 3 of 5</u> <u>#4 You must ask the Defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this?</u> Is this really a statutory requirement?</p>	<p>Please see committee response to comments Nos. 1 and 2, above.</p> <p>The instruction indicates that the clerk will fill in the case name.</p> <p>The committee agreed and added a check box to this item to highlight that a choice to complete or not complete the military declaration must be made.</p> <p>Please see committee response to</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p><u>Page 4 of 5</u> <u>1st column, 1st paragraph, “Small claims court,” last line</u> The person who sued is <u>suin</u>g you is the Plaintiff.</p> <p><u>2nd column, Do I Have Options?, 4th bullet point</u></p> <ul style="list-style-type: none"> • Sue the person who sued is <u>suin</u>g you. <p><u>What if I need more time?</u> You can change the trial date if:</p> <ul style="list-style-type: none"> • You cannot go to court on the scheduled date (you will have to pay a fee to <u>continue</u> 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. <p>Write to the court before the trial and explain why you want a <u>postponement</u>. Enclose a check if you have to pay a fee, unless a waiver was granted.</p>	<p>commentator No. 4, above.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made this change.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>Confusing difference between continuance (fee) and postponement (no fee).</p> <p><u>Page 5 of 5, first column, 8th paragraph, ¿Que' pase en el juicio? Second sentence</u> El juez puede tomar su decision durante las audiencia o enviarsla por correco despues. <u>despues.</u></p> <p><u>Second column, Tengo otras opciones?, 3rd bullet point, last sentence</u> Para asegurare que los testigos vayan al juicio, llene el formulario SC-107 y el secreatrio emitira una orden de comparecencia ordenandoles que se bagan <u>presentesn.</u></p> <p><u>¿Que hago si necesito mas tiempo? Puede cambiar la fecha del juicio si:</u></p> <ul style="list-style-type: none"> • No puede ir a la corte en la fecha programada (Tendra) que pagar una cuota para aplazar el juicio), o <p><u>SC-101 Page 2 of 2 (First column)</u> <u>What is non-binding arbitration?</u> Non-binding arbitration allows you and <u>or</u> the</p>	<p>The committee agreed and changed “continuance” to the statutory language, “postpone.”</p> <p>The committee agreed to correct this typographical error.</p> <p>The committee’s consultant agreed with these suggested Spanish-language changes, and the form was changed.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>other side to ask for a trial if either of you does not like the arbitrator’s decision. You have 30 days after the notice is mailed to ask for a trial.</p> <p><u>Second column</u> How long do I have to ask for a trial? Subsection of prior heading.</p> <p>How long do I have to ask the Court to vacate or correct the award? Second sentence is confusing.</p> <p>Which court do I use for a trial, or to confirm, correct, or vacate the award? Second bullet point.</p> <ul style="list-style-type: none"> • If the amount in disagreement is more than \$5,000, file in Superior Court. See Form ADR-105 <p>Small Claims <u>IS</u> Superior Court. Should be “Limited or unlimited.”</p>	<p>The committee agreed and made this change.</p> <p>Although the commentator is technically correct, the committee believes that the current heading is appropriate because it breaks up the text and maintains discrete subject-matter areas.</p> <p>The committee agreed and sought the assistance of the State Bar Association to rewrite this sentence. This paragraph was changed.</p> <p>Although the commentator is correct, the committee believes that the proposed change would make</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p><u>SC-103,</u> <u>Page 1 of 1</u> 2. This My business does business as (Check ONLY one): 3. Name of County where you filed your Fictitious Business Name Statement (dba): _____</p> <p><u>SC-104</u> <u>Page 1 of 2, second bullet point</u> <ul style="list-style-type: none"> • <u>General Manager or Officer</u> (president, vice-president, treasurer, etc.) No </p> <p><u>SC-120</u> <u>Page 1 of 3,</u> Aviso al demandado: <ul style="list-style-type: none"> • La persona que ha demandado lo esta demandando a usted. <u>Or</u> estú haciendo un a contra demanda contra usted</p> <p><u>SC-104B—What Is “Proof of Service?”</u> <u>Page 1 of 2</u> How Can I Serve? (3rd paragraph)—First column</p>	<p>the form appear too technical.</p> <p>The committee agreed in part. Because some businesses have subsidiaries, it rewrote the heading to read, “The business listed in 1 above does business as:”</p> <p>The committee agreed and made this change. [See also response to commentator No. 3, above.]</p> <p>The committee asked its consultant to review the suggested Spanish-language change. The committee agreed and made the change.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>Substituted service means someone gives the papers to an adult where the person lives, works or has a private mailbox.</p> <p>How about responsible adult? [See wording under “How do I do substituted service?” in column two.</p> <p>Note difference in use of word “private mailbox” vs. “private post office box.”]</p> <p><u>Page 2 of 2</u></p> <p>What does the server do with the Proof of Service form? (Second paragraph)</p> <p>If a friend served the papers, tell them to give the form back to you. Keep a copy... What about original? Addressing it in next paragraph not clear enough</p>	<p>The committee disagreed because it would make this summary section too long. The types of adults (competent or in charge), depending on where service is made, is further explained in column two. The committee reverted to the statutory language of “competent adult” for substituted service “at the home of the person in 1.”</p> <p>The committee agreed to make the two references consistent, using “private post office box.”</p> <p>The committee agreed and changed the sentence to read: “Keep a copy for your records and take the completed form with you when you go to court.”</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p><u>SC-104C</u> <u>Page 1 of 1</u> If you are suing... , First, Second, Third and Fourth bullet points</p> <ul style="list-style-type: none"> • <u>County</u>←[confusing] Clerk-Recorder Office (ask to see the fictitious business name statement), or • <u>City</u> ←[confusing] Clerk’s Office (ask to see the business license). • <u>County</u> ← [confusing] Clerk-Recorder Office (ask to see the fictitious business name statement), or • <u>City</u> ←[confusing]Clerk’s Office (ask to see the business license). <p>[Comments made directly on the forms are attached at pages A6 – A18.]</p>	<p>The committee disagreed. These are the most common labels for the government agencies to be contacted.</p>
20.	Judith Coker Staff Attorney/Small Claims Advisor Superior Court of California, County of San Diego North County Division Vista	AM	N	<p><u>SC-104</u> I’m afraid the litigants will become confused with the “Your name” listing in #1. They won’t know if it’s the person suing or the person serving. How about putting “Name of person suing”?</p>	<p>The committee agreed and reworked this section.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>Under #3 entitled “Instructions to Server” there are numerous references to “you.” While I understand it’s under the category specifically referring to the server, most litigants will not read the headline and still question who the “you” is referring to. How about putting in “the server” instead of “you”? i.e., “The server must...; If the server cannot find the person...; the server can give a copy to....”</p> <p>Also under #3, I think the statement that the server may not be named in the case should be bold or highlighted in some way. Or it would help if you use language similar to the first line from SC-104B that is in italics—“not you or anyone else named in the lawsuit...”</p> <p>I believe the reference to numbers is useful if it is limited. Under #3, there are so many references to numbers that I think it’s overwhelming. At least the last statement where it states “mail it to the person in #1” you could delete the number one and state “mail it to the person you are doing the service on behalf of.”</p> <p>There needs to be some statement on this form telling the litigant it is their responsibility to return the POS to the court clerk BEFORE the</p>	<p>The committee agreed in part and has reordered and reworked the form. See also committee response to commentator No. 14, above.</p> <p>The committee agreed and made this change by putting the phrase in bold format.</p> <p>Please see committee response to commentator No. 14, above.</p> <p>The form was reworked to address confusion, but some numbers were retained.</p> <p>Because the form has been reworked, the instructions are now primarily directed to the server.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>trial date (in some counties).</p> <p>Under #4, I strongly object to subsection “c” because there is very little point in serving an Order for Examination without using the sheriff, registered process server, etc. This space would be better used to include the Small Claims Subpoena. For the rare instances where a litigant wants to serve the Order to Appear without the sheriff, they can use the “other” space.</p> <p>In #s 1 and 2, the space for the phone numbers has the underline off center.</p> <p><u>SC-104A</u> #2 is incorrect by including subsection C. Sections 116.830, 708.110 and 415.10 require personal service of the orders of examination.</p> <p><u>SC-120</u> The primary objection I have to this form is how similar it looks to the plaintiff’s claim. Please, please please change the format somehow to make it look different AT FIRST GLANCE. The words “Defendant’s Claim” at the top and bottom of the form do not sufficiently distinguish this form from the plaintiff’s claim.</p>	<p>Form SC-104B, “What is Proof of Service?,” provides instruction to the litigant on page 2 of 2.</p> <p>The committee disagreed. The form could be used by a registered process server or other authorized server. The instruction was moved to the top of subdivision c. Item 8b (now 4b) was amended to clarify that these papers cannot be served by substituted service.</p> <p>The committee was not able to match this comment with the form. It may have been misplaced.</p> <p>The committee agreed and made this change.</p> <p>A design feature of the plain-language forms is to emphasize the form number in a bold contrasting graphic in the upper left-hand corner of each form and to develop a policy of referring to forms by number rather than title, similar to</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p><u>SC-104B</u> Under “Who can serve?” it would be helpful if you mention that some courthouses have sheriff stations in them—or at least that they can ask the small claims clerk where the sheriff is located.</p> <p>Under “When do the court forms have to be served?” I don’t think the following language is sufficiently clear: “that’s the exact deadline for serving your small claims forms. But you can serve the forms before that date.” I think the word “exact” will confuse people (even though you try to clarify with the “but you can serve the forms before the date.”) I think it is clearer to state that is the “latest date on which you can serve your small claims forms.” The next line starting with “but you can serve...” should stay as is.</p> <p>Under the section called “what if I can’t get...,” the statement that “the court can postpone your trial for 15 days” is not what is done here at this court. It’s usually 30 days.</p>	<p>IRS forms. The committee believes there should be consistency among the forms. See also comment No. 16, above, suggesting greater consistency between form SC-100 and SC-120.</p> <p>The committee agreed by adding a sentence, “Ask the court clerk how to contact the Sheriff.”</p> <p>The committee agreed in part and changed the form to state, “That’s the deadline for serving your small claims form.”</p> <p>The committee agreed by changing the language to “at least 15 days,” which is consistent with the statute.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>Under “who do I have to serve?” I think the examples are confusing. Specifically, the second example where you have on one line “Bob Smith and Lee Smith, owners, Lee Smith, driver” will encourage litigants to list more than one defendant on each line. It should more clearly state: Defendant No 1: Bob Smith, owner. Defendant No. 2: Lee Smith, owner and driver.</p> <p><u>SC-104C</u> Under “if you are suing...” a sole proprietor. The example states that you should write “Pat K. Smith, individually and doing business as Smith Carpets.” The “individually” is not required—it adds unnecessary complexity.</p> <p>Could you mention that County Recorder</p>	<p>The committee agreed and made this change.</p> <p>After much committee discussion, it became apparent that there are different opinions on this issue. There is a risk that the defendant may be treated as one entity if the individual is not also listed. The committee decided to keep the language to err on the side of excess, to protect the litigants. In the end this form was completely reworked in a chart format and the information reserved for a future instruction sheet.</p> <p>The committee agreed but</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>business info. is often available online?</p> <p>Under the partnership category, in our court you can't list two defendants on one line.</p>	<p>eliminated the example. It will be reserved for a future instruction sheet.</p> <p>The committee agreed but eliminated the example. It will be reserved for a future instruction sheet.</p>
21.	Stephen V. Love Executive Officer Superior Court of California, County of San Diego San Diego	AM	Y	<p>The following comments were received from our court's executives, managers, supervisors:</p> <p><u>SC-100, SC-104</u></p> <p>1. Agent for Service should appear on SC-100, in addition to SC-104. Knowing the name of the agent for service or authorized agent at the time the Claim of Plaintiffs is filed aids the plaintiff and the court in getting proper service. Learning the name of the agent for service after documents have been serviced does not assist the clerk and causes delays of proceedings because proper service cannot be affected.</p> <p><u>SC-104</u></p> <p>2. SC-104 is missing items #5, #6, and #7.</p>	<p>The committee did not agree with this suggestion. See committee response to commentator No. 3, above. A similar comment was made by commentator No. 16.</p> <p>The committee agreed and corrected the numbering on the form.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>3. On page 2 of SC-104, item #8b should begin, “Substituted Service: I personally gave copies of the documents checked in 4 to a responsible adult (at least 18) where the person in 2 lives, works, <i>or receives mail.</i>” The language directly following contains typos.</p> <p><u>SC-104B</u></p> <p>4. Under “What if I can’t get the court papers served before the trial?” where it says, “fill out form SC-110—the title of the form should be named (like they do throughout the documents with other forms). San Diego is not using this form because it does not account for resetting the trial date. In fact, this section blurs how San Diego “resets” and “continues” trials and will lead to confusion if the litigants really do read it.</p> <p>5. On SC-104, item #3 Instruction to Server should be placed at the very beginning of the form and the items renumbered. This will make it clear to the plaintiff or defendant that they do not complete this form.</p>	<p>The committee agreed and made these changes. (Now item 4b.)</p> <p>The committee changed this section based on comments above. If there has been no service, the party is directed to contact the clerk. If there has been service, the party is directed to use form SC-110. The order, form SC-111, has space for the reset trial date.</p> <p>The committee agreed and reworked the form.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>Make the “Note” at the end of 4c more prominent to make it clear that a warrant will not issue unless service is by a recognized individual or agency since the form encourages service of OEX paperwork by other than the Sheriff.</p> <p>6. On SC-104, item 8B there should a place for a description of the person. Many times the party receiving the paperwork will not give a name. The server should then describe who took the papers.</p> <p><u>SC-104A</u></p> <p>7. On SC-104A #2c is not necessary. A judgment debtor exam is never sub-served.</p> <p>8. On SC-104A #3, why the extra line? If this form has to be attached to SC-104 and a separate SC-104 has to be filed for each person served then there would not be multiple parties listed here.</p> <p><u>SC-104B</u></p> <p>9. On page 2 of SC-104B, under “When do the court forms have to be served?” the Claim of Defendant form title and</p>	<p>The committee agreed and moved the note to the top of this section.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and made this change. However, the committee did not agree with</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>number are referenced, but the time frame for service is not mentioned. Also, an example of calculating the time frame would be helpful as the description can cause confusion for litigants.</p> <p>10. Form SC-104B:</p> <p>a. Last paragraph under “What does the server do with the proof of service form?” It should state “original Proof of Service.”</p> <p>b. Under “What if I can’t get the court papers served before the trial? The first paragraph, last line should read “...or mail a copy of this form to all other parties that have been served.” If the claim is not served, it should only be sent to parties that have appeared in the case, not all named parties. And in the second paragraph, a 15-day postponement is not enough if the plaintiff still needs to serve any of the defendants.</p> <p>c. Under “who do I serve?” the examples are too much information. This should be under the instruction</p>	<p>providing an example of calculating the time.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed and has reworked this paragraph.</p> <p>The committee agreed and changed this to “at least 15 days” to be consistent with the statutory language.</p> <p>The committee disagreed because it wanted to provide one example of</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p style="text-align: center;">for filing.</p> <p><u>SC-104C</u></p> <p>11. On page 21 on SC-104C, add colon after the paragraph that addressed “An Association” and the word “Portal:”</p> <p>12. Form SC-104C is unnecessary. Small Claims litigants with questions of this nature go directly to the Advisor’s office.</p> <p>13. Form SC-104C—In both places where the County Clerk-Recorder Office is mentioned, a statement should be added stating. “This information may be available online in your county.”</p>	<p>how to name and serve persons, not a business. This section was also amended to show each defendant on a separate line. A future instruction sheet will show how to name parties.</p> <p>The committee agreed and made this change.</p> <p>The committee disagreed because there are different levels of small claims advisory services throughout the state. It may help those in counties with fewer resources.</p> <p>The committee agreed and made this change.</p>
22.	Fang Le Huang Small Claims Litigant	AM	N	<p>I am a student and a victim of the rip-off and negligence of auto repair. I experienced the hardship in collection of the judgment. My comments to the following issues are as follows:</p> <p><u>SC-104C</u></p>	

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>Issue of “How to Serve a Business” My own experience of serving the defendant was a nightmare.</p> <p>I tried to send my complaint by certified mail with return receipt to the address stated in the Business License Record. It was returned by the post office.</p> <p>I requested the free legal service for a mediation and a letter was mailed to the owner’s registered address and was returned to the mediation program.</p> <p>Finally, when I filed a lawsuit in Small Claims Court for my damages after all the attempts for solution failed, I paid for the sheriff to serve the summon to the defendant’s business address. The Proof of Service was filed and the hearing scheduled.</p> <p>After failure of collecting the judgment, I filed a judgment lien at Secretary of State. I received a Demand Request/Beneficiary’s Demand Statement from an escrow company because the lien was found in the process of escrow for the</p>	<p>The committee believes that the new form SC-104C, “How to Sue a Business,” would be of assistance to small claims litigants in situations like this one.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>sale of business. I received no money for months.</p> <p>When I finally obtained a writ of execution and it was served by the sheriff to the escrow company where the account was, there was not any response sent to the levying officer within 10 days as required by law. I asked why no action to collect the money; the levying officer responded that he could not do any contact with the escrow company and only could wait for the response sent to him or any explanation for no payment for the writ. In fact, the levying officer should go to collect the money in the escrow account after 14 days of the service.</p> <p>When I continued to push for the payment, I received a call from the escrow company to notice me that a check would be ready for pick up two days later on 3-16-05 due to closing of the escrow account. I went with 2 witnesses, but no check was given.</p> <p>I asked for the reason but the staff of the escrow company could not give me a reasonable answer. I called the sheriff department and reported it to the levying officer in Orange County. I was told that he could not do anything except to wait for the check or explanation.</p>	

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>I was given a copy of a letter by the staff of escrow company, from the attorney of the owner of the escrow account. He said I served to the wrong party because several businesses registered at the same location. In fact, the defendant was well known to the sheriffs because so many complaints were filed in the Small Claims Court against the same business. Therefore, it was well known to the sheriff about the business address they served and the Proof of Service was filed in the court record.</p> <p>How to avoid such excuse for service and make it clear for the parties involved is my comment to “How to Serve a Business.”</p> <p><u>SC-100, SC-104C</u> Issue of “Naming the Defendant(s)”</p> <p>My experience to name the defendant was also a big challenge. The receipt of payment stated the business name, same as in the advertisement. The registration in the Business License Record was under another company name. In fact, in the same address, there are 4 companies registered in the Comprehensive Business Report. It tells the fact that four companies are the same owner and are doing the same one business in one address.</p>	<p>The committee sympathizes with the small claims litigant and the problems she encountered. The problems appear to be of a legal and tactical nature not related to the form. This highlights the need for strong small claims advisory services.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>When the victim/plaintiff filed a lawsuit in court or made a complaint against the misconduct in the related department, though the business license was revoked as sanction to the rip-off, the business was still ongoing under the other three licenses, without any interruption. It is the tactics to avoid the judgment payment.</p> <p>In the transaction of the sale of business, the escrow company that handled the escrow account also played a role as “codependent.” According to the search for the licensee of the escrow company in trouble, in the information provided by Dept of Real Estate and Dept of Corporation, the escrow company also used the same “tactics” in the registration. Therefore, if the victim-plaintiff tries to seek remedies from the escrow company due to no satisfaction of judgment lien before completing the transaction of ownership, naming the defendant may be the same result.</p> <p>How to prevent such “tactics” to avoid satisfaction of judgment is my comment to the issue of “Name the defendant(s).” Should we name all of them as the defendants or the attachment was allowed to all of their properties?</p> <p>Issue of “Jurisdiction”</p>	<p>The small claims advisor would likely have advised the claimant to name and serve all the defendants.</p>

SPR05-10
Small Claims Plain-Language Forms
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				<p>When making a complaint to the related departments where the troubled business is located or the jurisdiction belongs to, the conflict of jurisdictions appeared because each department was limited by its own jurisdiction or territory. It became an issue of legal loophole that was used by the business to avoid the punishment for no satisfaction of judgment.</p> <p>According to the City Administrative Office in Arcadia, if an application is filed for a new business license or renewal in the City of Arcadia, with the required document submitted that complied with the City Rules, the Business Record Dept. still issued the license, regardless of many complaints daily made to the Business Record Department against such business, because the State Laws are different from the City's own Rules.</p> <p>Under this situation, how to stop the misconduct of rip-off due to the jurisdiction and to protect the victims is my comment to the issues of legal loophole and jurisdiction. Sanction of fine or revoking the license cannot help the victims for their financial loss. Therefore, to establish a network in order to solve the jurisdictions issue may be necessary.</p>	

SPR05-10
Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>Issue of Service of Writ of Execution Pursuant to Code of Civil Procedure section 699.510(c)(2) "...The levying office may not require the person, if other than the judgment debtor, in possession or control of the levied property to pay the amount or deliver the property levied upon until the expiration of 15 days after service of notice of levy."</p> <p>However, according to the Sheriff Dept in Orange County, after serving the levy and writ of execution to the judgment debtor or the third party in possession of the levied property, the levying office cannot do any further action except to wait for the response sent by the served party, regardless of how long it takes. The levying office cannot even make a call for the reason of no response returned within 10 days.</p> <p>Under this situation, why is it good to apply for a writ of execution and why no enforcement of it by the levying officer?</p> <p>The enclosure includes the following evidence material:</p> <ol style="list-style-type: none"> 1. Comprehensive Business Report (4 companies registered in one address) 	

SPR05-10
 Small Claims Plain-Language Forms
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				2. Taken For a Ride, Follow-Up #1 (violations and reaction of B.A.R.) 3. Taken for a Ride, Follow-Up #2 (rip-offs) 4. Writ of Execution The auto repair is related to public safety issue, if the incompetent work or rip-off caused the auto accidents. The victims and damages can extend to the auto insurance companies who pay for the claims, the innocent people who share the road, the passengers in the vehicles. If the damages caused the fatal result that is a silent murder or disability to the victim-drivers, the government agencies will be involved, such as court hearings for the lawsuits, SSDI, unemployment, etc., and then the taxpayers will be the last victims. [Staff note: The commentator faxed three supplemental e-mails with additional information about this claim that have not been reproduced here.]	
23.	Jody Patel Executive Officer/Clerk of the Court Superior Court of California, County of Sacramento Sacramento	AM	Y	<u>SC-100</u> The information in the form is spread out over several pages, making it difficult for the parties to follow. Also, only one plaintiff and one defendant can be listed on the first page, with all other plaintiffs and defendants added on page	Please see committee response to commentator No. 2, above. The proposed form was amended to list two plaintiffs and two

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				five. Many litigants forget to add the parties and must then amend the complaint to add the additional parties. We suggest a revision to the form to allow all party information to be entered on one page.	defendants on page 2 in response to earlier comments. This should strike a balance between accommodating the need to add one more plaintiff and defendant in most cases and not having to add additional pages to the form.
24.	Joseph Berberich Attorney Manning, Leaver, Burder & Berberich Los Angeles	N	N	<p><u>SC-100—Plaintiff’s Claim</u></p> <p>1. It doesn’t seem that the word “people” is the right word to use, particularly when businesses are suing or being sued. It would seem better to say: “the plaintiffs and defendants....”</p> <p>2. In the top left hand corner of each form it says “Your name.” Whose name is to be placed there if there are two plaintiffs? It might also be confusing to a person signing on behalf of the business whether that person’s name, or the business name, is to be placed there. Would it not be more appropriate to have the reference refer to the abbreviated title of the case such as “Smith v. Jones”? Or should simply the name of the first plaintiff be placed there?</p>	<p>The committee disagreed. The term is consistent with the plain-language format. Corporations are considered “persons,” and businesses will know who has to go in to court.</p> <p>The committee agreed and amended the form, to indicate that all plaintiff’s names should be listed.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p><u>Page 3 of form, item 5b</u> 3. To make it clear, it could read: “(check one <u>only</u> that applies).”</p> <p><u>Item 5b</u> 4. It seems that this should read: “Where the buyer or lessee signed the contract, lives now, or lived at the time the contract was made, if this claim is about an offer...”</p> <p><u>Item 5c</u> 5. It seems that this sentence should read: “where the buyer signed the contract, now lives, or lived at the time the contract was made, if this claim is about the retail installment....”</p> <p><u>Item 5d</u> 6. It seems that this sentence should read: “Where the buyer signed the contract, now lives, lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale”</p> <p>7. I am enclosing a copy of a page from the EZ Legal File System. This recites, and</p>	<p>The committee agreed to clarify this sentence to read, “check <u>the</u> one that applies.”</p> <p>The committee agreed that this language is better and amended the form.</p> <p>The committee agreed that this language is better and amended the form.</p> <p>The committee agreed to add “where the vehicle is permanently garaged.”</p> <p>The committee agreed that all plaintiffs must sign the claim form,</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>it is my understanding, that each plaintiff needs to sign SC-100. If there is more than one plaintiff, where would the other</p> <p>8. plaintiff(s) sign? Should there also be a place for additional plaintiffs to sign on SC-100A?</p> <p><u>SC-103—Fictitious Business Name</u> After “Business Address,” should it say: “(not a P.O. Box)”? The Fictitious Business Name Statements filed with the County Recorders specifically state that in filling out the form, the business address must be stated, not a P.O. Box.</p> <p><u>SC-120—Defendant’s Claims and Order to Go to Small Claims Court</u></p> <p>1. Same comment as comment 2 for SC-100.</p> <p>2. Same comment as comment 7 for SC-100. If there is more than one defendant, where would the others sign?</p> <p><u>SC-104—Proof of Service</u></p> <p>1. By showing a business as a “sole proprietorship, corporation, partnership,</p>	<p>and it has made appropriate changes. All plaintiffs must verify the claim, including those signing on the attachment form SC-100A.</p> <p>The committee agreed and made this change.</p> <p>The committee agreed to make conforming changes to SC-120 and developed new form SC-120A to be attached to SC-120.</p> <p>The committee agreed and made this change.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>or association,” the form ignores other entities such as limited liability companies, limited partnerships, and limited liability partnerships. There are different rules for how to serve these entities, which are broader than the service rules stated on the form.</p> <p>2. Instead of stating “your name,” it would be clearer if this read the same as it does on item one on SC-104A, “Name of person, business, or agency asking for service.”</p> <p>3. This part of the form seems to exclude the possibility that the process server, especially if it is a sheriff or registered process server, will file the form directly with the court.</p> <p>4. This part of the form does not allow for the distinction between using substituted service on a business or an individual, as reflected in Code of Civil Procedure section 415.20(a) and (b).</p> <p><u>SC-104B—What is proof of Service?</u></p> <p>1. This form seems to ignore the difference</p>	<p>The committee deleted the item and reworked this section of the form.</p> <p>Direct filing is explained on form SC-104B, “What is Proof of Service?,” page 2. This is an optional form designed to be used primarily by nonprofessionals.</p> <p>The committee agreed and revised the form.</p> <p>The committee agreed and revised</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>in substituted service for service on an individual versus a business as specified in Code of Civil Procedure section 415.20(a) and (b).</p> <p>2. Same comment as in 1.</p> <p><u>SC-104C—How to serve a business</u></p> <p>1. This form seems to leave out other business entities mentioned above.</p> <p>2. It would seem particularly appropriate for small claims litigants that this form also refer to Code of Civil Procedure section 415.95 regarding service on a “business organization, form unknown.” Perhaps if this section is used, the proof of service should have some way of showing service using this code section.</p> <p>[Comments made directly on the forms are attached at pages A19 – A29.]</p>	<p>the form.</p> <p>The committee agreed and revised the form.</p> <p>The committee agreed and revised the form.</p> <p>The committee agreed and revised the form.</p>
25.	Scott Reep, Attorney President, Small Claims Advisor Association Contra Costa County	Not Stated		<p><u>SC-100</u> <u>Page 7, - bullet point 5</u> Change to “Read pages 2 to 4 of this form to better understand the Plaintiff’s claim against you and for information to protect your rights.”</p>	<p>The committee agreed in part. It revised the language to read “this form and all pages attached” because additional pages could be</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p><u>Page 7, - Order to go to court</u> Change to “The parties people in 1 and 2” Might be confusing as businesses are not “people.”</p> <p><u>Page 9, - item 5a (venue)</u> Currently VERY confusing! a(1), a(2), a(3), a(4) are all separate bases for venue and each should have its own box to check and should reference the Code of Civil Procedure section that provides for that venue rule. It currently appears that 2, 3, 4 require a contract, as set forth in (1). 5a should be renumbered as follows (using current numbers) (2), (3), (4), (1).</p> <p><u>Page 9, -item 5d (venue)</u> Civil Code section 2984.4 also provides: “or where the motor vehicle is permanently garaged.”</p> <p><u>Page 10, - Information for the defendant</u> Add “Do I file any papers with the Court before the trial?”</p>	<p>attached to the form.</p> <p>The committee disagreed. The term is consistent with the plain-language format. Corporations are considered “persons,” and businesses will know who has to go to court. See also response to commentator No. 24, above.</p> <p>The committee agreed in part and reordered the items under item 5 to put the contract venue item last.</p> <p>The committee agreed and revised the form. See also commentator No. 24, above.</p>

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
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				<p>No, not unless you challenge the trial location (venue). Code of Civil Procedure section 116.370. Otherwise, be prepared to bring all the papers and evidence that support your side to the trial.</p> <p><u>SC-104</u> <u>Page 16, – 3</u> There is no requirement that “IF you cannot find the person in (2)” IN SMALL CLAIMS SUBSTITUTED SERVICE IS NOT DEPENDENT ON WHETHER OR NOT THE PERSON IS AT WORK OR HOME.</p> <p><u>Page 17, item – 8b</u> Should read “I personally gave copies of the documents checked in 4(a) or 4(b) to a responsible adult (at least 18) where the person in 2 lives, works or receives their mail (other than a PO Box). I told the adult”</p> <p>SUBSTITUTED SERVICE CANNOT BE USED FOR OEX and must be done by a registered process server – SC-134/EJ-135.</p> <p><u>SC-104A</u> <u>Page 18, – item 2c</u> Should be removed entirely as these documents</p>	<p>The committee agreed in part by incorporating this suggestion under the heading “How Do I get Ready for Court” and revised the form.</p> <p>The committee agreed and revised the form.</p> <p>The committee agreed and revised the form.</p> <p>The committee agreed and revised the form.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p>cannot be substitute served.</p> <p><u>Page 19, - What is service?</u> The word “gives” should be changed to “delivers” as the word “gives” connotes physical acceptance. The requirement is that they left in the presence of the person served.</p> <p><u>Page 19, - How can I serve?</u> Change to “How is service done?” Otherwise it is confusing and appears that the individual can do the service.</p> <p><u>Page 19, - How can I serve?</u> “Personal service means someone leaves the papers with the person being sued (the defendant).”</p> <p><u>Page 19, - What happens if I do not serve?</u> Change to “What happens if the defendant is not served?”</p> <p>The reference to the first person could be confusing.</p>	<p>The committee believes such a change would defeat the plain-language purpose of the form and could be confusing under the substitute service section involving a private post office box.</p> <p>The committee agreed and revised the headings throughout.</p> <p>The committee disagreed. See comment above under “What is service?” “Leaving” the papers is explained under “How is personal service done?”</p> <p>The committee agreed and revised the form.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p><u>Page 19, - How do I do personal service?</u> Change to “How is personal service done?” The reference to the first person could be confusing.</p> <p><u>Page 19, - How do I do substituted service?</u> Change to “How is substituted service done?” The reference to the first person could be confusing.</p> <p><u>Page 20, - When do the court forms have to be served?</u> Take out reference to SC-120 as the time referenced in the paragraph has nothing to do with SC-120.</p> <p><u>Page 20, - Who do I serve?</u> Perhaps adding the rules regarding service on a minor would be helpful, as this information does not appear to be readily available elsewhere.</p>	<p>The committee agreed and revised the form.</p> <p>The committee agreed and revised the form.</p> <p>The committee revised the form to include service of a defendant’s claim.</p> <p>The committee disagreed because not everything can be covered on the form. These are general guidelines. The litigant is directed to the “Need Help?” section on the form for additional assistance.</p>

SPR05-10
 Small Claims Plain-Language Forms
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				<p><u>Page 21, - A business that is a partnership.</u> Double-check statement that service on one partner is service on all partners. I usually have recommended that plaintiffs serve all partners doing business under one fictitious business name.</p> <p><u>SC-120</u> <u>Page 22, - A corporation</u> Add that a general manager can be served also.</p> <p><u>Page 24, – item 4</u> Not sure if this is a requirement for a defendant’s claim or not.</p>	<p>Service on the general partner is sufficient when suing a general partnership.</p> <p>The committee agreed and revised the form.</p> <p>The committee agreed and revised the form to substitute “may” for “must.”</p>
26.	State Bar of California’s Committee on Administration of Justice	A	Y	<p>Agree with proposed changes.</p> <p>CAJ supports this proposal, but has one comment. On page 1 of Forms SC-100 and SC-120, in the box under “Order to Go to Court” it appears as though the “2.” and “3.” and the lines after them under “Date” “Time” and “Department” should be deleted, as it may be confusing since there will be only one trial date.</p>	<p>No response required.</p> <p>Court clerks requested multiple lines for “resets” of the trial date. Frequently the defendant is not served and a new trial date must be inserted on the claim form.</p>
27.	Pam Myeranda	A	N	Agree with proposed changes.	No response required.

SPR05-10
 Small Claims Plain-Language Forms
 (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120;
 adopt new forms SC-104B, SC-104C, and SC-120A)

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	Program Manager Superior Court of California, County of Solano Fairfield				