

**Superior Court, County of
Ventura
Self-Help Legal Access Center**

**FILING A
PERSONAL INJURY
OR PROPERTY
DAMAGE LAWSUIT**

Plaintiff's Instructions
When and Where to File

1

When and Where to File

1. When to File Your Complaint

Every lawsuit must be filed within the specified time limit the law provides. This time period is called the **Statute of Limitation**. Each complaint must have at least one **cause of action**, or legal theory upon which the lawsuit is based. Each **cause of action** has a corresponding **Statute of Limitation** that applies to it. The **Statute of Limitation** for a **cause of action** based on **negligence** is generally one year from the date of the accident causing injury. (*See Code of Civil Procedure section 340*). To find out the **Statutes of Limitations** applicable to your case, look in the Code of Civil Procedure beginning at section 312.

WARNING: Some claims, such as those against a government entity, have a separate limitations period to file a claim before you can file a lawsuit. As a general rule, if you have a claim against a government entity for **negligence** you must file a **Government Tort Claim** with that entity within 6 months from the date of the accident or incident causing injury, and before you can file a lawsuit in court. (*See Code of Civil Procedure section 313, and the California Government Code beginning at section 810*) Each government entity has its own Tort Claim form you can obtain from that entity. If the government entity denies your claim, you only have a limited time to file suit. Refer to the language in the denial of your claim or Government Code section 945.6.

WARNING: Some claims based on **professional negligence**, such as those against doctors, may require a prior **Notice of Intention to Commence Action**. This notice must be given to the professional you are planning to sue at least 90 days before you file suit. (*See Code of Civil Procedure beginning at section 364*)

2. Counting the Time to File Your Complaint

When counting the days to determine when the Statute of Limitation runs, do not count the day of the accident or incident, but start with the next day. (*See Code of Civil Procedure section 12.*) If the last day falls on a court holiday, you have until the next day to file. (*See Code of Civil Procedure section 12a*). If you are computing when to file your government Tort Claim, the same rule applies. (*See Government Code section 6707*).

Certain circumstances may allow for a longer period to file because the Statute of Limitation is **tolled**, or held in abeyance, for specified situations, such as the plaintiff being a minor. It is ALWAYS prudent to check with a competent private attorney whether the Statute of Limitations may be tolled, before deciding whether to wait to file a lawsuit.

3. Where to File Your Complaint

There are two different things to consider in deciding where to file your complaint. One thing you must consider is the type of court, or what we call **jurisdiction**, and the other thing you must consider is the location of the court, or what we call **venue**.

A. **Jurisdiction**

There are three different types of courts where you can file your complaint. The three types are:

- (1) Small Claims Courts – for cases involving claims for money up to \$5,000.00
- (2) Superior Court, Limited Case (referred to in some counties as “Municipal Court”)– for cases involving claims for money up to \$25,000.00
- (3) Superior Court – all other cases, including claims for

money over \$25,000.00.

Of the three choices, Small Claims Court is by far the easiest since it is intended for people who are not represented by an attorney and the proceedings are simplified. Trial is usually set about four to six weeks from the date the complaint is filed. The filing fee is \$25.00. You should be aware that a plaintiff has no right to appeal a small claims decision, only a defendant can appeal.

A Limited Case and a standard Superior Court Case are procedurally almost the same. Both need to be completed within a year of filing the complaint, and will generally have a trial date set about 10 months from the date the complaint is filed. You will be expected to proceed with the case in the time frames shown on our flow chart entitled "*Life and Times of a Standard Civil Case.*" You will also be expected to comply with the Code of Civil Procedure, California Rules of Court, and Local Rules of Court pertaining to each aspect of your case. It takes a lot of reading and preparation for you to proceed with a case in the Superior Court.

B. **Venue**

Courts in California are divided between counties, and sometimes within counties there are different

here to get the Answer Forms

You can get the Answer forms from the court clerk's office or from the Self-Help Legal Access (ASHLA) Center in Room 106 of the Ventura Courthouse. Forms are 10 cents a page plus tax.

3. What does it Cost to File an Answer?

It costs \$86.00 for each person named as a **defendant** to file an answer. If your income is below a certain level, you can apply for a **waiver** of the filing fee. You can get a **fee waiver application** packet from the court clerk's office or from the SHLA Center. The fee waiver application is

free.

WARNING:

THE VENTURA COURTS SELF-HELP LEGAL ACCESS CENTER IS NOT REPRESENTING YOU, OR TELLING YOU WHICH CHOICE TO MAKE. IT HAS ONLY ASSISTED YOU IN REPRESENTING YOURSELF BY PROVIDING LIMITED INFORMATION ABOUT YOUR OPTIONS. NO ATTORNEY FROM THE CENTER WILL APPEAR IN COURT TO REPRESENT YOU AT TRIAL OR ANY OTHER HEARING. YOU ARE REPRESENTING YOURSELF. THE CENTER STRONGLY RECOMMENDS THAT YOU SEEK THE ADVICE OF AN ATTORNEY IN THIS MATTER IF YOU CAN. IF YOU DESIRE FURTHER REFERRAL INFORMATION REGARDING SECURING AN ATTORNEY, YOU MAY CALL THE LAWYER REFERRAL SERVICE OF THE VENTURA COUNTY BAR ASSOCIATION AT (805) 650-7599.