

Hello.

I am sending you information on collecting a judgment; including how to collect, common choices and Internet links to forms (no forms are included in the document).

FIRST, Read 0000 How to read attachments - it has the instructions on how to read and use the other attachments.

Please pay attention to the instructions in 00 Judgment Collection Package. It is a lot to read, but this information contains your options and instructions.

Be aware that collecting your judgment may take a long time and requires that you pay additional expenses.

## How to read the numbered attachments:

1. You may need to do a debtor's exam to see what property the debtor has, where it's located and important information that helps you identify the property (such as bank account numbers, place of employment, etc.) if you don't know.
  - Read in this order, attachments numbered:
    - 00
    - 01
    - 02B
    - 05A
    - And,
    - 05B

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2. Once you know about the property of the debtor you can collect.
  - Read in this order, attachments numbered:
    - 02C
    - 06A
    - 06B1
    - 06B2
    - 06B3
    - 06C1
    - And,
    - 06C2.

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3. You may place a lien on real estate.
  - Read attachment numbered:
    - 07A.

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4. You may place a lien on personal property.
  - Read attachment numbered:
    - 07B.

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5. You may be able to ask for interest and costs of collecting.
  - Read in this order, attachments numbered:
    - 08,
    - 09A,
    - And,
    - 09B.

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6. Once the judgment debtor pays you, you have to inform the court or you may be penalized by the court, since the debtor may sue you for not informing the court of their payment.
  - Read in this order, attachments numbered:
    - 10A,
    - 10B
    - And,
    - 10C.

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7. Lastly, you may need to renew the judgment because more than 5 years have passed from the date the judgment was entered (renew no later than 9.5 years later).
  - Read attachment numbered:
    - 11.

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### Special Judgments - email for more information:

- Judgment due to car accident – maybe able to suspend debtor's driver's license
- Against a landlord - maybe able to collect from tenants (3<sup>rd</sup> party collections)

## DISMISSAL OF SMALL CLAIMS CASES

The **plaintiff** is the party who completes and files the dismissal forms; usually, because the case is the plaintiff's case, not the defendant's case.

Defendant(s) does not file any papers to dismiss the case. See last page for situations when the defendant may be able to ask the court to dismiss the case.

Sometimes, the plaintiff agrees that the defendant can submit the dismissal forms to the court and the plaintiff signs the dismissal form so the defendant can submit the forms.

### How to Dismiss a Case

#### Step 1

You, as the plaintiff, may use one these 3 ways to dismiss a case:

1. Fill out and file Form [SC-105](#), Request for Court Order and Answer, and Form [SC-105A](#), Order on Request for Court Order and Answer.

Or

2. Fill out and file Form [CIV-110](#) and Form [CIV-120](#).

Or

3. Write a letter to the Small Claims court. asking that it dismiss the case
  - The letter should arrive at court at least 5 days before the hearing.

#### Step 2

**Send** a copy of your request to dismiss to the defendant(s) (and any other plaintiffs) only if you have **served** Form SC-100, Plaintiff's Claim and Order on **some or all of the defendants** and you **haven't gone to trial yet**.

- If you have **not served any** defendant, then you do **not** need to serve them a copy of your request to dismiss the case.

**Important Note:** Defendant(s) do not file any papers to dismiss the case unless the defendant(s) also filed a case against the plaintiff and that case is also being dismissed.

However, even if the plaintiff is dismissing the case against a defendant, the defendant does not have to dismiss their claim against the plaintiff and may keep it on the court's calendar for hearing, unless all cases are settled or the defendant decides to also dismiss their case.

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## **Kinds of Dismissals**

You chose the type of dismissal you want depending on what you want to do with the case:

- Dismissal **with prejudice** (the case cannot be filed again)

Or

- Dismissal **without prejudice** (the case can be filed again).

## **I Settled the Case – I Want to Dismiss the Case**

If you and the defendant(s) have reached an agreement entirely and you are fully paid or whatever you agreed to is done then you have settled the case and all that's left to do is dismiss the case.

**Important Note:** If you are paid by personal or company check, make sure the check has cleared; some banks take 30 days to clear a check.

**Tip:** It is best if the defendant pays you with a cashier's check or money order, since you don't have to wait 30 days for either of these to clear. If the defendant pays you with a personal or business check do not dismiss the case until the check clears.

**Follow the steps** in [How to Dismiss a Case](#) above. Dismiss the case [with prejudice](#).

## **What does the court do after I file**

The court will inform you by mail if the case is dismissed. If you have not received the court's decision, call the court at least 3 days before the trial to see if the case is dismissed.

If you don't receive the judge's decision,

1. You may either go to court and ask the judge to dismiss the case

Or

2. Not go to court.

**Important note:** If you **don't go to court**, the court will dismiss the case, but [without prejudice](#) only. This is not the best way to dismiss the case when the case was settled since the defendant expects a settled case to be dismissed with prejudice.

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### **I Want to Ask the Court to Dismiss a Case I Might ,or Will, Refile Later**

Sometimes you need to dismiss a case, but you might, or will, refile it later. These are some of the situations when you need to do this:

1. A case that you only partly settled or you agreed to drop in it exchange for settling (and you have not been fully paid yet),

Or

2. A case in which the defendant(s) agrees to make payments and you feel they may not make any or some of them

Or

3. You are not ready to go to court because you have not been able to serve defendant(s) or cannot go to court yet for another reason.

Or,

4. You want to dismiss the case because the court doesn't have the authority to hear the case because it belongs in another court in another state (or another country) or county in California and you need to file it there instead.

In any of the above situations you will want to keep your options open so that you can refile your case if you have to. Therefore, you will file a request to dismiss and ask the court to dismiss without prejudice.

***Follow the steps in [How to Dismiss a Case](#) above.***

Be sure to ask the court to dismiss without prejudice or check the boxes that say 'without prejudice'.

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## **I Am the Defendant, When May I Ask the Court to Dismiss the Case**

Usually, the plaintiff is the party that completes and files the dismissal form; however, as a defendant, you may ask the court to dismiss the case

1. If the court doesn't have the authority to hear the case because the case belongs in another county or in **another jurisdiction** (such as in **another state or country**). Ask the court to dismiss the case [without prejudice](#).

Or

2. If the case has already been heard and decided before (and there is a final judgment), you may also ask the court to dismiss the case. Ask the court to dismiss the case [with prejudice](#).
- 3.

Or

4. You also filed a case against the plaintiff and you agreed to dismiss your case in exchange for the plaintiff dismissing their case ask the court to dismiss the case [with prejudice](#); unless you both agreed that you can refile later. If you agreed you may both file later, ask the court to dismiss the case [without prejudice](#).

Or

5. If you are not the correct defendant named in the case. For example, if you are a manager, not the owner or a property or another person has the same name as you. Ask the court to dismiss the case [with prejudice](#) as to you only.

Or

6. If you can prove to the court that it is too late to file the case (statute of limitations has passed). Ask the court to dismiss the case [with prejudice](#)

Or

7. If you can prove to the court that you paid the plaintiff in full (and there is nothing left for you to pay or do) after you were sued by the defendant, but before the judgment. Ask the court to dismiss the case [with prejudice](#)

### **Follow the steps in [How to Dismiss a Case above](#)**

Be sure to ask the court to check the correct box as to 'with prejudice' or 'without prejudice'.

**Very Important Note:** If you **don't receive a decision from the court** informing you that the case was dismissed, you will need to **show up** to the trial (or hearing) or you **risk a default judgment** being entered against you. A default judgment is a judgment that the court can enter when the defendant doesn't go to the hearing.

The judge may

- Tell you at the beginning of the trial or hearing that the case against you is dismissed (based on your request).
- Or
- Will hold the hearing and inform you at the end. Be prepared to show the judge evidence supporting your request to dismiss.
- Or
- Inform you by mail after the trial in the Notice of Entry of Judgment form.

**End**