

SMALL CLAIMS BASICS

EVERYONE SHOULD KNOW

By Dania M. Baker (Alvarenga), Esq.

An acquaintance borrows money and never gives it back! You sell your car and the check bounces. You're having trouble collecting your security deposit. What do you do? You don't think your case is worth hiring an attorney, but it's significant enough that you want to do something about it. Thankfully, if your case is under a limited money amount, there is an inexpensive and quick solution: Small Claims Court.

What is Small Claims Court?

It's a court that hears cases that are under a certain money amount- hence the name, these are small claims.

What Can I Sue For?

You can bring a case for anything from security deposits, business disputes, contract disputes, loans, car accidents, property damage or anything that falls under the money amount.

Who Can Sue?

Anyone who is mentally competent and over 18. This can include an individual, a corporation or other entity.

How Much Can I Sue For?

If you are filing as an individual you can sue for up to \$10,00. If you are a corporation or entity you can sue for up to \$5,000. You can file as many claims that are under \$2,500 as you want, but you can only file 2 claims per year that ask for more than \$2,500.

What Do I Do To Take Someone To Small Claims?

If you are suing someone you are called a plaintiff. If you are being sued by someone you are called a defendant. As a Plaintiff:

1. The first thing you need to do is make sure your case falls in small claims jurisdiction. This means your case cannot be over \$10,00 if you are an individual or \$5,000 if you are an entity.
2. Fill out form SC-100 available at: <https://www.courts.ca.gov/documents/sc100.pdf>
The form is relatively easy to understand and asks you in simple English the basics of your case.
3. Take the form and submit it to the Court Clerk's office. The address of where you will file depends on where the person you are suing lives/where the contract or dispute took place.
4. You will need to pay the required filing fee. Fees vary depending on the amount you are suing for. The Court will tell you how much your fee is. If you filed more than 12 small claims cases in the past 12 months your fee will be higher.
5. Once you file your papers and pay the fee, the Court will give you a hearing date that can be anywhere between 20 or 70 days after you file your claim.
6. "Serve" the defendant, or his representative, a copy of the paperwork you submitted in Court. You can't do this yourself; you need to have a third party (a friend, a company or the sheriff) officially serve him a copy of your complaint. There are strict rules about when and how documents must be served so it is best to hire a professional company to do this (usually costs about \$30-100) they will take care of the actual process of serving and provide you proof that the defendant was served.

Can I Hire An Attorney?

There is nothing preventing you from hiring an attorney to help you in the preparation of your case for trial. Oftentimes, it is better to have an attorney go over your case with you and help you straighten out your line of questions and testimony. However, attorneys are not allowed to accompany you to the actual trial. This means that neither you nor the other side can have an attorney during the hearing.

How Do I Prepare For The Hearing?

Preparation depends on each person. You should try to gather any photographs, facts, documents and witnesses well ahead of the trial date.

When you are under pressure in front of a judge it's easy to forget things so it is best to write down a list of important topics and write down important dates. It is also a good idea to prepare an outline of your argument and to try to anticipate what the other side will say and prepare a counterargument.

What Will Happen During The Hearing?

There is usually a long list of people bringing their cases before the judge. This means you will probably have an audience during your hearing. The bailiff or judge calls cases in order. When you hear your name being called you have to go up to stand before the judge.

Usually, the party bringing the lawsuit will be able to present his case in front of the judge. Make sure to state your name and whether you are bringing the lawsuit or defending it. The judge will usually give you cues whether he wants you to sit down, stand up or tell him your story. When you do present your story make sure to do it in order, in a logical way. You don't need to tell the judge every single tiny detail, but stick only to the important information i.e. what you agreed to, where the agreement was made, who witnessed it, did anyone sign it.

Be prepared since the judge may interrupt your testimony with questions.

The other side will also be able to present its side of the story. If you are defending a case do not interrupt the person suing you during his testimony. Judges hate this. It may be great for television drama, but in reality, it will only get you negative attention from the judge. You may want to keep a list of important things the Plaintiff said that you want to clarify. Do not be emotional and keep cool. Simply tell the judge why Plaintiff is wrong and why you should win.

You may show photos, exhibits, documents or ask the judge to include witnesses that you think are crucial to your case.

After hearing both sides the judge will make a decision based on the evidence presented. The judge may immediately let you know his decision or may mail it to you later.

What If I Don't Agree With the Decision?

You can file an appeal within 30 days after the clerk mails you the notice of entry of judgment. There is a cost for filing an appeal.

** The information provide in this article is for informational purposes only and is not intended to serve as legal advice. If you have an inquiry related to Jury Selection or on any legal matter, it is advised that you seek the assistance of an attorney.*