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# SUPERIOR COURT OF CALIFORNIA
# COUNTY OF SAN DIEGO

# SMALL CLAIMS PACKET
## HOW TO FILE A
## SMALL CLAIMS CASE

| FORMS INCLUDED IN THIS PACKET | |
|---|---|
| Small Claims Legal Advisor Information Sheet | SDSC Form #SC-025 |
| How to File a Small Claims Case | SDSC Form #SC-023 |
| Information for the Small Claims Plaintiff | Judicial Council Form #SC-100-INFO |
| Mediation Information for Small Claims Parties | SDSC Form #SC-063 |
| Plaintiff's Claim and ORDER to Go to Small Claims Court | Judicial Council Form #SC-100 |
| Other Plaintiffs and Defendants | Judicial Council Form #SC-100A |
| What is "Proof of Service"? | Judicial Council Form #SC-104B |
| How to Serve a Business | Judicial Council Form #SC-104C |
| Proof of Service | Judicial Council Form #SC-104 |
| Information for Small Claims Parties | SDSC Form #SC-026 |
| Request for Dismissal – Small Claims | SDSC Form #SC-044 |
| Pre-Trial Checklist – Small Claims Trials | SDSC Form #SC-064 |

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

## SMALL CLAIMS COURT LEGAL ADVISOR PROGRAM

**The Small Claims Legal Advisor provides free assistance to anyone with questions regarding lawsuits in San Diego County Small Claims Court. The Advisor is available by telephone only to give general legal information and explain the Small Claims Court rules and procedures.**

**Phone Hotline for all Locations**

**24 hour Recording: (858) 634-1900**

**Phone Bank: (858) 634-1777**

## USEFUL RESOURCES

**Legal Aid Society of San Diego**
www.lassd.org

**San Diego County Public Law Library**
For hours and locations visit the Law Library website at www.sdcll.org

**San Diego Better Business Bureau**
Automated Voice Response: (858) 496-2131
www.sandiego.bbb.org

**Department of Consumer Affairs**
Resolves consumer complaints including those against licensed contractors: (800) 344-9940
www.dca.ca.gov

For information regarding fictitious business filings and real property records:
**County Recorder's Office**
http://arcc.co.san-diego.ca.us/arcc

For information regarding corporations including agents for service of process:
**Secretary of State**
1500 11th Street
Sacramento, CA 95814
(916) 657-5251
www.sos.ca.gov

City halls may provide information on businesses within city limits, for example, owner name, address, phone number, etc.

**ADDITIONAL INFORMATION ONLINE:**

Small Claims information online:
www.dca.ca.gov/publications/small_claims

www.courts.ca.gov/selfhelp-smallclaims.htm

Where to file a complaint against companies regulated by the State:
www.dca.ca.gov/consumer/complaints

For assistance in determining the value of a vehicle:
www.kbb.com or www.edmunds.com

***The San Diego Superior Court does not control or maintain the websites on this list and cannot be responsible for the accuracy of the content they contain. In addition, the contents of a website may change and the court would not necessarily be aware of the change. When you access one of these websites, you are subject to the terms of use and privacy policies of that website.***

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

## SMALL CLAIMS COURT

www.sdcourt.ca.gov

## HOW TO FILE A SMALL CLAIMS CASE

1. Information for the Plaintiff (JC Form #SC-100-INFO) – Read this first.

2. All Small Claims cases **must** be filed in the Central Division located at 330 W. Broadway, San Diego, CA 92101.

3. Plaintiff's Claim and ORDER to Go to Small Claims Court (JC Form #SC-100) – Fill out this form and sign it. This form will become your case so you must be sure that all pages are typed or clearly printed in blue or black ink. Make a copy for yourself and each named defendant. Bring or mail the original and all copies to the Small Claims Court. Fillable forms can be found at www.sdcourt.ca.gov

   **How to correctly name yourself and the defendant (examples):**

   | | |
   |---|---|
   | Individual: | First name, middle name or initial (if any), last name |
   | Business Owner: | John Smith d.b.a. The ABC Company<br>**(*Note: as a Plaintiff, if you name yourself in this way, you must file a Fictitious Business Name Declaration (JC Form #SC-103)*)** |
   | Corporation: | The ABC Company, Inc. *or*, The ABC Company, a Ca. Corp. |
   | Partnership: | The ABC Company, a partnership of John Stone and Mary Hill |

   If you are suing a corporation, you will need to know the name and address of the agent for service of process before you bring your claim to the Small Claims Court. This information can be obtained from the California Secretary of State at www.sos.ca.gov. At your trial, the judge may ask you to prove that the correct agent was served. For more information on how to sue a business refer to How to Serve a Business (JC Form #SC-104C), included in this packet.

4. Filing the Claim – Submit your signed claim, all copies, and a filing fee to the court. To determine the correct filing fee, refer to the current Fee Schedule (SDSC Form #ADM-001), available on the court's web site: www.sdcourt.ca.gov. Make checks payable to Clerk of the Superior Court.

5. Giving Copies to Defendant (Serving) – Each defendant must be given one copy of the "Plaintiff's Claim and ORDER to Go to Small Claims Court." To find out how to serve the defendant and file a proof of service, read Information for the Plaintiff (JC Form #SC-100-INFO) and What is "Proof of Service"? (JC Form #SC-104B), included in this packet. Proof of Service must be submitted to the court clerk at least five (5) days before your trial date.

6. Additional Information –
   - If you are submitting your claim by mail, include a self-addressed, legal size envelope stamped with sufficient postage for your copies to be mailed back to you.
   - If you are not able to serve the defendant and need another trial date, complete the Request to Postpone Trial (JC Form #SC-150).
   - For more information, visit the California Courts Self-Help Center at www.courtinfo.ca.gov/selfhelp (English) or www.sucorte.ca.gov (Spanish).

**IF SENDING YOUR CLAIM TO THE COURT BY MAIL, RETURN THE BOTTOM PORTION OF THIS PAGE.**

✂ . . . . . .

**HOW WILL YOU HAVE YOUR CLAIM SERVED?**

☐ **Friend or other disinterested person, at least 18 years of age -** After serving the defendant, complete a Proof of Service (JC Form #SC-104), available on the court's web site www.sdcourt.ca.gov.

☐ **Certified Mail -** There is a fee for each defendant and **must be included with the filing fee** – see Fee Schedule (SDSC Form #ADM-001).

# INFORMATION FOR THE SMALL CLAIMS PLAINTIFF

**SC-100-INFO**

This information sheet is written for the person who sues in the small claims court. It explains some of the rules of, and some general information about, the small claims court. It may also be helpful for the person who is sued.

## WHAT IS SMALL CLAIMS COURT?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. The person who sues is the **plaintiff.** The person who is sued is the **defendant.** In small claims court, you may ask a lawyer for advice before you go to court, but you cannot have a lawyer in court. Your claim cannot be for more than $5,000 if you are a business or public entity or for more than $10,000 if you are a natural person (including a sole proprietor). *(See below for reference to exceptions.*)* If you have a claim for more than this amount, you may sue in the civil division of the trial court or you may sue in the small claims court and give up your right to the amount over the limit. You cannot, however, file more than two cases in small claims court for more than $2,500 each during a calendar year.

## WHO CAN FILE A CLAIM?

1. You must be at least *18 years old* to file a claim. If you are not yet 18, tell the clerk. You may ask the court to appoint a **guardian ad litem.** This is a person who will act for you in the case. The guardian ad litem is usually a parent, a relative, or an adult friend.
2. A person who sues in small claims court must first make a **demand**, if possible. This means that you have asked the defendant to pay, and the defendant has refused. If your claim is for possession of property, you must ask the defendant to give you the property.
3. Unless you fall within two technical exceptions, you must be the **original owner** of the claim. This means that if the claim is assigned, the buyer cannot sue in the small claims court. **You must also appear at the small claims hearing yourself unless you filed the claim for a corporation or other entity that is not a natural person.**
4. If a corporation files a claim, an employee, an officer, or a director must act on its behalf. If the claim is filed on behalf of an association or another entity that is not a natural person, a regularly employed person of the entity must act on its behalf. A person who appears on behalf of a corporation or another entity must not be employed or associated solely for the purpose of representing the corporation or other entity in the small claims court. **You must file a declaration with the court to appear in any of these instances.** (See *Authorization to Appear,* form SC-109.)

## WHERE CAN YOU FILE YOUR CLAIM?

You must sue in the right court and location. This rule is called **venue.** Check the court's local rules if there is more than one court location in the county handling small claims cases. If you file your claim in the wrong court, the court will dismiss the claim unless all defendants personally appear at the hearing and agree that the claim may be heard. The right location may be any of these:

1. Where the defendant lives or where the business involved is located;
2. Where the damage or accident happened;
3. Where the contract was signed or carried out;
4. If the defendant is a corporation, where the contract was broken; or
5. For a retail installment account or sales contract or a motor vehicle finance sale:
   a. Where the buyer lives;
   b. Where the buyer lived when the contract was entered into;
   c. Where the buyer signed the contract; or
   d. Where the goods or vehicle are permanently kept.

## SOME RULES ABOUT THE DEFENDANT (including government agencies)

1. You must sue using the defendant's *exact legal name.* If the defendant is a business or a corporation and you do not know the exact legal name, check with the state or local licensing agency, the county clerk's office, or the Office of the Secretary of State, Corporate Status Unit, at *www.sos.ca.gov/business*. Ask the clerk for help if you do not know how to find this information. If you do not use the defendant's exact legal name, the court may be able to correct the name on your claim at the hearing or after the judgment.
2. If you want to sue a government agency, you must first file a claim with the agency before you can file a lawsuit in court. Strict time limits apply. If you are in a Department of Corrections or Youth Authority facility, you must prove that the agency denied your claim. Please attach a copy of the denial to your claim.
3. With very limited exceptions, the defendant must be served within the state of California.

## HOW DOES THE DEFENDANT FIND OUT ABOUT THE CLAIM?

You must make sure the defendant finds out about your lawsuit. This has to be done according to the rules or your case may be dismissed or delayed. The correct way of telling the defendant about the lawsuit is called **service of process.** This means giving the defendant a copy of the claim. **YOU CANNOT DO THIS YOURSELF.** You should read form SC-104B, *What is "Proof of Service"?* Here are four ways to serve the defendant:

1. **Service by a law officer**—You may ask the marshal or sheriff to serve the defendant. A fee will be charged.
2. **Process server**—You may ask anyone who is *not a party* in your case and who is at least *18 years old* to serve the defendant. The person is called a **process server** and must personally give a copy of your claim to the defendant. The person must also sign a proof of service form showing when the defendant was served. Registered process servers will serve papers for a fee. You may also ask a friend or relative to do it.
3. **Certified mail**—You may ask the clerk of the court to serve the defendant by certified mail. The clerk will charge a fee. You should check back with the court before the hearing to see if the receipt for certified mail was returned to the court. **Service by certified mail must be done by the clerk's office except in motor vehicle accident cases involving out-of-state defendants.**
4. **Substituted service**—This method lets you serve another person instead of the defendant. You must follow the procedures carefully. You may also wish to use the marshal or sheriff or a registered process server.

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)

4. **Substituted service** *(continued)* A copy of your claim must be left at the defendant's business with the person in charge, **OR** at the defendant's home with a competent person who is at least 18 years old. The person who receives the claim must be told about its contents. Another copy must be mailed, first class postage prepaid, to the defendant at the address where the paper was left. The service is not complete until *10 days* after the copy is mailed.

5. **Timing and proof of service**—No matter which method of service you choose, the defendant must be served by a certain date, or the trial will be postponed. If the defendant lives in the county, service must be completed at least *15 days* before the trial date. This period is at least *20 days* if the defendant lives outside the county.

   The person who serves the defendant must sign a court paper showing when the defendant was served. This paper is called a *Proof of Service* (form SC-104). It must be signed and returned to the court clerk as soon as the defendant has been served.

## WHAT IF THE DEFENDANT ALSO HAS A CLAIM?

Sometimes the person who was sued (the **defendant)** will also have a claim against the person who filed the lawsuit (the **plaintiff**). This claim is called the *Defendant's Claim.* The defendant may file this claim in the same lawsuit. This helps to resolve all of the disagreements between the parties at the same time.

If the defendant decides to file the claim in the small claims court, the claim may not be for more than $5,000, or $10,000 if the defendant is a natural person *(see exceptions on page 1*).* If the value of the claim is more than this amount, the defendant may either give up the amount over $5,000 or $10,000 and sue in the small claims court or sue in the appropriate court for the full value of the claim. If the defendant's claim relates to the same contract, transaction, matter, or event that is the subject of your claim and exceeds the value amount for small claims court, the defendant may file the claim in the appropriate court and file a motion to transfer your claim to that court to resolve both claims together.

The defendant's claim must be served on the plaintiff at least *five days* before the trial. If the defendant received the plaintiff's claim *10 days* or less before the trial, then the claim must be served at least *one day* before the trial. Both claims will be heard by the court at the same time.

## WHAT HAPPENS AT THE TRIAL?

Be sure you are on time for the trial. The small claims trial is informal. You must bring with you all witnesses, books, receipts, and other papers or things to prove your case. You may ask the witnesses to come to court voluntarily, or you may ask the clerk to issue a **subpoena.** A subpoena is a court order that *requires* the witness to go to trial. The witness has a right to charge a fee for going to the trial. If you do not have the records or papers to prove your case, you may also get a court order before the trial date requiring the papers to be brought to the trial. This order is called a *Small Claims Subpoena and Declaration* (form SC-107).

If you settle the case before the trial, you must file a **dismissal** form with the clerk.

The court's decision is usually mailed to you after the trial. It may also be hand delivered to you when the trial is over and after the judge has made a decision. The decision appears on a form called the *Notice of Entry of Judgment* (form SC-130 or SC-200).

## WHAT HAPPENS AFTER JUDGMENT?

The court may have ordered one party to pay money to the other party. The party who wins the case and is owed the money is called the **judgment creditor.** The party who loses the case and owes the money is called the **judgment debtor.** Enforcement of the judgment is **postponed** until the time for appeal ends or until the appeal is decided. This means that the judgment creditor cannot collect any money or take any action until this period is over. Generally both parties may be represented by lawyers after judgment. More information about your rights after judgment is available on the back of the *Notice of Entry of Judgment*. The clerk may also have this information on a separate sheet.

## HOW TO GET HELP WITH YOUR CASE

1. **Lawyers**—Both parties may ask a lawyer about the case, but a lawyer may not represent either party in court at the small claims trial. Generally, after judgment and on appeal, both parties may be represented by lawyers.
2. **Interpreters**—If you do not speak English well, ask the court clerk as soon as possible if your court has a court-provided interpreter available and how to request one. A court-provided interpreter may not be available. Alternatively, you may bring an adult who is not a witness or an attorney to interpret for you or ask the court for a list of interpreters for hire.
3. **Waiver of fees**—The court charges fees for some of its procedures. Fees are also charged for serving the defendant with the claim. The court may excuse you from paying these fees if you cannot afford them. Ask the clerk for the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) to find out if you meet the requirements so that you do not have to pay the fees.
4. **Night and Saturday court**—If you cannot go to court during working hours, ask the clerk if the court has trials at **night** or on **Saturdays.**
5. **Parties who are in jail**—If you are in jail, the court may excuse you from going to the trial. Instead, you may ask another person who is not an attorney to go to the trial for you. You may mail written declarations to the court to support your case.
6. **Accommodations**—If you have a disability and need assistance, immediately ask the court to help accommodate your needs. If you are hearing impaired and need assistance, notify the court immediately.
7. **Forms**—You can get small claims forms and more information at the California Courts Self-Help Center website *(www.courts.ca.gov/smallclaims),* your county law library, or the courthouse nearest you.
8. **Small claims advisors**—The law requires each county to provide assistance in small claims cases free of charge. *(Small claims advisor information):*

   (858) 634-1777 Advisor's Number
   (858) 634-1900 Recorded Information

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
## SMALL CLAIMS COURT

## MEDIATION INFORMATION FOR SMALL CLAIMS PARTIES

This form provides answers to frequently asked questions about mediation in small claims cases.

**What is Mediation?**
Mediation is a confidential, voluntary process in which a trained mediator acts as a neutral third party to facilitate communication between individuals who have a dispute, and assist them with reaching a mutually acceptable resolution of all or part of their dispute. The mediator is not the decision-maker and does not resolve the dispute - the parties do. Mediation is a flexible and less formal process that may reduce the time and costs often associated with a formal trial. It provides both parties a chance to talk and come to an agreement that they can agree to make legally enforceable.

**What does mediation cost?**
Mediation is free**.** The County of San Diego contracts with the National Conflict Resolution Center (NCRC) to offer free mediation services to community members.

**Is mediation confidential?**
Mediation is confidential. With few exceptions, all communications, negotiations, or settlement discussions in the course of mediation are confidential and are not admissible in court, unless the parties agree. This allows an uninhibited discussion during mediation.

**When does mediation take place?**
A dispute can be mediated either before or after a small claims case has been filed. If the dispute is mediated before filing a case and an agreement is reached at the mediation, there will be no need to file a small claims case. If a case has already been filed, the agreement reached at the mediation can be entered into the court record without having to go to court.

**Where is mediation held?**
Mediation is offered remotely by telephone or video conferencing.

**How long does mediation last?**
Mediation of a small claims dispute usually lasts less than an hour.

**What should parties expect?**
Parties should be prepared to state their positions and to listen carefully to the other side. Civility and mutual respect are vital to the process.

**What if the dispute isn't settled at mediation?**
If the parties are unable to reach a full agreement at mediation, the case or any unresolved issues will be decided by the judicial officer or temporary judge assigned to the small claims case on the day the hearing was originally scheduled. If mediation occurs before filing a small claims case and the parties do not reach a full agreement, either party may still be able to file a small claims case with the court, if it is not too late (see below).

Claims may be time-sensitive. To determine the time frame for filing a claim with the court, contact an attorney or the Small Claims Advisor at (858)634-1777.

**Where can more information about Small Claims Court mediation be found?**
Additional information about Small Claims Court mediation can be found on the court's website at www.sdcourt.ca.gov or by contacting NCRC at (619)238-2400.

# SC-100 Plaintiff's Claim and ORDER to Go to Small Claims Court

*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 San Diego**

CENTRAL DIVISION, SMALL CLAIMS,
330 W. BROADWAY, SAN DIEGO, CA 92101

*Court fills in case number when form is filed.*

**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. Written request for continuance must include a $10.00 fee and be submitted at least 10 days before trial date.

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-100-INFO, *Information for the Plaintiff*, to know your rights. Get SC-100-INFO at any courthouse or county law library, or go to *www.courts.ca.gov/smallclaims/forms.*
- Fill out pages 2 and 3 of this form. Then make copies of **all** pages of this form. (Make one 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 five 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.

Plaintiff *(list names):*

**Case Number:**

## 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 two 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.*

☐ *Check here if any plaintiff is a "licensee" or "deferred deposit originator" (payday lender) under Financial Code sections 23000 et seq.*

## 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 the defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process here:**

Name: _____ Job title, if known: _____

Address: _____ _____ _____ _____
*Street* *City* *State* *Zip*

☐ *Check here if your case is against more than one defendant, 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?

_____

_____

When did this happen? *(Date):* _____

b. 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)*:

**Case Number:**

**4 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. If your claim is for possession of property, you must ask the defendant to give you the property. Have you done this?**

☐ Yes ☐ No If no, explain why not:

_____

_____

**5 Why are you filing your claim at this courthouse?**

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

a. ☐ (1) Where the defendant lives or does business.
(2) Where the plaintiff's property was damaged.
(3) Where the plaintiff was injured.
(4) Where a contract (written or spoken) was made, signed, performed, or broken by the defendant *or* where the defendant lived or did business when the defendant made the contract.

b. ☐ Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim, is about an offer or contract for personal, family, or household goods, services, or loans. *(Code Civ. Proc., § 395(b).)*

c. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). *(Civ 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. *(Civ 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 Is your claim for more than $2,500?** ☐ Yes ☐ No

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

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

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

Date: _____ _____ ▶ _____

*Plaintiff types or prints name here* *Plaintiff signs here*

Date: _____ _____ ▶ _____

*Second plaintiff types or prints name here* *Second plaintiff signs here*

**Requests for Accommodations**

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

# Information for the defendant (the person being sued)

**"Small claims court"** is a special court where claims for $10,000 or less are decided. Individuals, including "natural persons" and sole proprietors, may claim up to $10,000. Corporations, partnerships, public entities, and other businesses are limited to claims of $5,000. (See below for exceptions.*) The process is quick and cheap. The rules are simple and informal. You are the *defendant*—the person being sued. The person who is suing you is the *plaintiff*.

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

**How do I get ready for court?** You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that supports your case. And read "Be Prepared for Your Trial" at *www.courts.ca.gov/smallclaims/prepare.*

**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 court clerk as soon as possible for a court-provided interpreter. You may use form INT-300 or local court form to request an interpreter. If a court interpreter is not available at the time of your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form INT-140.)

**Where can I get the court forms I need?** Go to any courthouse or your county law library, or print forms at *www.courts.ca.gov/smallclaims/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 may 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 clerk hands or mails you the judge's decision (judgment) on form SC-200 or form SC-130, *Notice of Entry of Judgment*.
- 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.courts.ca.gov/smallclaims/appeals.*

## 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, the plaintiff must file form CIV-110, *Request for Dismissal*, with the clerk. 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 so.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To have the court order a witness to go to the trial, fill out form SC-107 (*Small Claims Subpoena*) and have it served on the witness.
- **Sue the person who is suing you.** If you have a claim against the plaintiff, and the claim is appropriate for small claims court as described on this form, you may file *Defendant's Claim* (form SC-120) and bring the claim in this action. If your claim is for *more* than allowed in small claims court, you may still file it in small claims court if you give up the amount over the small claims value amount, or you may file a claim for the full value of the claim in the appropriate court. If your claim is for more than allowed in small claims court *and* relates to the same contract, transaction, matter, or event that is the subject of the plaintiff's claim, you may file your claim in the appropriate court and file a motion to transfer the plaintiff's 's claim to that court to resolve both matters together. You can see a description of the amounts allowed in the paragraph above titled **"Small Claims Court."**
- **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-150 (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.

(858) 634-1777 Advisor's Number
(858) 634-1900 Recorded Information

Or go to *www.courts.ca.gov/smallclaims/advisor.*

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)

# SC-100 Información para el demandado (la persona demandada)

La **"Corte de reclamos menores"** es una corte especial donde se deciden casos por $10,000 o menos. Los individuos, o sea las "personas físicas" y los propietarios por cuenta propia, pueden reclamar hasta $10,000. Las corporaciones, asociaciones, entidades públicas y otras empresas solo pueden reclamar hasta $5,000. (Vea abajo para las excepciones.*) 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 pruebas que apoyan su caso. Y lea "Esté preparado para su juicio" en www.courts.ca.gov/reclamosmenores/preparese.

**¿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?** Solicite un intérprete al secretario de la corte lo más pronto posible. Puede usar el formulario INT-300 o un formulario de su corte local. Si no está disponible un intérprete de la corte para su juicio, es posible que se tenga que cambiar la fecha de su juicio. No puede llevar su propio intérprete para el juicio a menos que el intérprete haya sido aprobado por la corte como un intérprete certificado, registrado, o provisionalmente calificado. (Vea la regla 2.893 de las Reglas de la Corte de California, y el formulario INT-140.)

**¿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.courts.ca.gov/ smallclaims/forms (página está en inglés).

**¿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* (Notice of Appeal). Tiene que presentarlo dentro de 30 días después de que el secretario le entregue o envíe la decisión (fallo) del juez en el formulario SC-200 o SC-130, *Aviso de publicación del fallo* (Notice of Entry of Judgment).
- 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.courts.ca.gov/reclamosmenores/apelaciones.*

**¿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 cómo resolver el caso, el Demandante tiene que presentar el formulario CIV-110, Solicitud de desestimación (Request for Dismissal) ante el secretario de 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. Si desea que la corte emita una orden de comparecencia para que los testigos vayan al juicio, llene el formulario SC-107, *Citatorio de reclamos menores* (Small Claims Subpoena) y entrégueselo legalmente al testigo.
- **Demandar a la persona que lo demandó.** Si tiene un reclamo contra el Demandante, y el reclamo se puede presentar en la corte de reclamos menores, tal como se describe en este formulario, puede presentar el formulario SC-120, *Reclamo del demandado* (Defendant's Claim) y presentarlo en este mismo caso. Si su reclamo excede el límite permitido en la corte de reclamos menores, puede igualmente presentarlo en la corte de reclamos menores si está dispuesto a limitar su reclamo al máximo permitido, o puede presentar un reclamo por el monto total en la corte apropiada. Si su reclamo excede el límite permitido en la corte de reclamos menores y está relacionado con el mismo contrato, transacción, asunto o acontecimiento que el reclamo del Demandante, puede presentar su reclamo en la corte apropiada y presentar una moción para transferir el reclamo del Demandante a dicha corte, para poder resolver los dos reclamos juntos. Puede ver una descripción de los montos permitidos en el párrafo anterior titulado "Corte de reclamos menores".
- **Aeptar 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-150 (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.

(858) 634-1777 Advisor's Number
(858) 634-1900 Recorded Information

O visite *www.courts.ca.gov/reclamosmenores/asesores.*

*** Excepciones:** Existen diferentes límites en un reclamo contra un garante. (Vea el Código de Procedimiento Civil, sección 116.220 (c).)

# SC-100A Other Plaintiffs or Defendants

**Case Number:**

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

**1 If more than two 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 one defendant (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: _____

*If this defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process:*

Name: _____ Job title, if known: _____

Address: _____

City: _____ State: _____ Zip: _____

☐ *Check here if your case is against more than two defendants, and fill out and attach another form SC-100A.*

**3 Is your claim for more than $2,500?** ☐ Yes ☐ No

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

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

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

Date: _____

_____ ▶ _____

Type or print your name *Sign your name*

Date:

_____ ▶ _____

Type or print your name *Sign your name*

# SC-104B What Is "Proof of Service"?

## 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 not get 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.

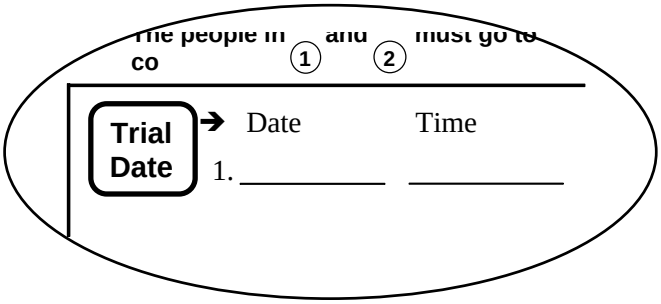
If a friend served the papers, tell him or her to give the completed form back to you. Keep a copy for your records and take the copy with you when you go to court.

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-150, *Request to Postpone Trial*, 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.

(858) 634-1777 Advisor's Number
(858) 634-1900 Recorded Information

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

*To serve a public entity, see page 2.*

# SC-104C How to Serve a Business or Public Entity (Small Claims)

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 *Proof of Service*, form SC-104.

| **Business Type:** | **Sole Proprietorship** (Only 1 owner) | **Partnership** | **Landlord** | **Corporation, Association** | **Limited Liability Company (LLC), Limited Liability Partnership (LLP), Limited Partnership (LP)** | **Unknown Business Type** |
|---|---|---|---|---|---|---|
| **Serve:** | The owner | If you are suing a **partnership,** serve one of the partners.<br><br>If you are suing a **partnership** *and* the partners, serve each partner. | The property owner or manager *(Read Civil Code sections 1962–1962.7.)* | Agent for service listed with Secretary of State or any corporate officer (president, vice-president, secretary, treasurer), chief executive officer (CEO), controller, chief financial officer, or general manager | Agent for service listed with Secretary of State<br><br>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<br>• Owner's name and job title | • Partnership name<br>• Name of partner, general manager, or agent for service and job title | • Business name (if there is one)<br>• Owner's name and job title | • Corporation name<br>• Name of corporate officer or agent for service and job title | • Company or partnership name<br>• Name of agent or partner for service and job title | • Business name, form unknown<br>• Owner's name and job title *(if you know it)* |
| **Check that you have the *exact* names of the owner and business with:** | • County Clerk–Recorder's or County Tax Assessor's Office (Ask to see the fictitious business name statement.) Your county's Web site may have this information.<br>Check: ***www.csac.counties.org*.**<br>• City Clerk's Office (Ask to see the business license.) Your city's website may have this information. | | County Tax Collector | Search under Corporation, LP and LLC at the California Secretary of State website: businesssearch.sos.ca.gov/<br>Or call:**1-916-657-5448**<br>**OR**<br>County Clerk–Recorder's Office: (Ask to see the fictitious business name statement.) Your county's website may have this information.<br>**OR**<br>City Clerk's Office: (Ask to see the business license.) Your city's website may have this information. | | Try the other resources listed on this page to see if they know more about the business's organization type, like corporation or sole proprietorship. |

## Need help?

For free help, contact your county's Small Claims Advisor:

(858) 634-1777 Advisor's Number

(858) 634-1900 Recorded Information

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

*To serve a business, see page 1.*

# SC-104C How to Serve a Business or Public Entity (Small Claims)

You must serve the *right* person and write the *exact* name of the public agency and the person to be served.
Use this form to make sure you serve correctly, and follow the instructions on *Proof of Service*, form SC-104.

| | City, County, or Public Entity | State of California, State Agency | Federal Agency |
|---|---|---|---|
| **Serve:** | City or county clerk, chief officer or director of public agency, or agent authorized to accept service | Use this general address for service:<br>Office of the Attorney General<br>1300 I Street<br>Sacramento, CA 95814<br><br>*Exception:* if your claim involves California Department of Transportation (Caltrans), serve it at:<br>California Department of Transportation<br>1120 N Street<br>Sacramento, CA 95814 | *You cannot sue a **federal** agency in small claims court.* |
| | ***Important!***<br>*Before you sue, you must **first** file a claim with the public entity. Contact it and ask for the claim procedures.* | *Note:*<br>*Before you sue, you must first file a claim with the state or the state agency. To file a claim, see:*<br>***www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx*** *or call:* **1-800-955-0045** | |
| **Write on your *Proof of Service* form:** | • Name of city, county, or public entity<br>• Name of city clerk, county clerk, chief officer, or agent for service and job title | • Name of the agency you are suing<br>• Name of agent for service | |
| **Check that you have the *exact* names of the owner and business with:** | Call the city or county clerk. See the government pages of your phone book.<br><br>Or search under the California Roster at the California Secretary of State website:<br>***www.sos.ca.gov/administration/california-roster/*** | Call the agency to confirm the name and address for service. Use the State Directory:<br>**1-800-807-6755**<br>Or search: ***cold.ca.gov*** *under "agency information"* | |

## Need help?

For free help, contact your county's Small Claims Advisor:

(858) 634-1777 Advisor's Number

(858) 634-1900 Recorded Information

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

# SC-104 Proof of Service

Clerk stamps date here when form is filed.

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

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

- Owner (for a sole proprietorship)
- 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 first file a claim with that entity, then serve **one** of the following people:

- Clerk (of a city or county)
- Chief officer or director (of a public agency)
- Any person authorized for service by the entity

*Fill in court name and street address:*

**SUPERIOR COURT OF CALIFORNIA**
**COUNTY OF SAN DIEGO**
CENTRAL DIVISION, SMALL CLAIMS,
330 W. BROADWAY , SAN DIEGO, CA 92101

*Fill in case number, case name, hearing date, day, time, and department below:*

**Case Number:**

**Case Name:**

**Hearing Date:**

**Time:** **Dept.:**

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

_____

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

_____
Business or Agency Name

_____
Person Authorized for Service Job Title

(2) **Instructions to Server:**

You must be at least 18 years old and **not be named in this case.** Follow these steps:

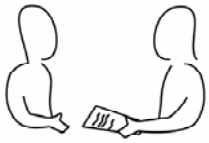
- Give a copy of all the documents checked in (3) to the person in (1), ***or***
- Give a copy of all the documents checked in (3) to one of the following people:
  a. A competent adult (at least 18) living with, and at the home of the person in (1), *or*
  b. An adult (at least 18) who seems to be in charge at the usual workplace of the person in (1), *or*
  c. An adult (at least 18) who seems to be in charge where the person in (1) usually receives mail (but not a U.S. Post Office box), if there is no known physical address for the person in (1).

  *and* mail a copy of the documents left with one of the adults in a, b, or c above to the person in (1).

THEN

- Complete and sign this form, and
- Give or mail your completed form to the person who asked you to serve these court papers, ***in time for the form to be filed with the court at least 5 days before the hearing.***

(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. Check the form that was served):*

***Note:*** *The court can issue a civil arrest warrant if the served party does not come to court* ***only*** *if the order for examination was personally served by a registered process server, sheriff, marshal, or someone appointed by the court.*

(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*

d. ☐ Other *(specify):* _____



American LegalNet, Inc.
www.Forms*Workflow*.com

Case name: _____

**Case Number:**

## 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 who seems to be in charge where the person in 1 usually **works**, or

☐ An adult who seems to be in charge where the person in 1 usually **receives mail**, or has a private post office box (not a U.S. Post Office box), if there is no known physical address for the person in 1.

I told that adult, "Please give these court papers to (name of person in 1)."

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, 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 *(check one):*

a. ☐ At a U.S. Postal Service mail drop, or

b. ☐ 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

c. ☐ With someone else I asked 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 named in this case and that the information above is true and correct.

Date: _____

_____ ▶ _____

*Type or print server's name* *Server signs here after serving*

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

## SMALL CLAIMS COURT

### INFORMATION FOR SMALL CLAIMS PARTIES

This form provides information for the party filing a small claims case. For additional information about small claims court, visit the Superior Court's website at www.sdcourt.ca.gov.

- **Interpreter:** If you have a small claims trial scheduled and need an interpreter, complete the Interpreter Request/Cancellation form (SDSC Form #ADM-348) as far in advance of your trial as possible. The form can be brought to the business office during business hours, placed in the drop box or mailed to the court location noted on your paperwork. The court will try to schedule an interpreter for the date and time of your trial at no cost to you, but cannot guarantee that one will be available. Alternatively, you may bring an adult, who is not a witness on this case, or an attorney to interpret for you. **CANCELATION OF INTERPRETER:** IT IS THE RESPONSIBILITY OF THE PARTY FOR WHOM AN INTERPRETER WAS REQUESTED, OR HIS/HER ATTORNEY, TO NOTIFY THE COURT IMMEDIATELY IF AN INTEPRETER IS NO LONGER NEEDED.

- **Imaging of Documents**: Effective October 2, 2017, all new claims will be assigned to an Imaging Department. You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filings will be imaged and held for 30 days. **BE ADVISED**: **The original documents will be destroyed and recycled. Thus, DO NOT attach original documents or exhibits to your filings**. Original documents necessary for a hearing or that are being submitted per the terms of an order granting permission to appear telephonically, shall be lodged in advance pursuant to California Rules of Court, rule 3.1302(b). The preferred method to lodge documents is to complete the Notice of Lodgment – Small Claims form (SDSC Form #SC-061).

- **Serving the Paperwork**: You are responsible for having your claim served upon the other party. The person who performs the service must complete a proof of service form and return it to the court at least five (5) days prior to the trial. For more information, see What is "Proof of Service"? form (JC Form #SC-104B). The most common ways to serve a party include the following:
  - Professional process server: These are businesses whose sole function is to serve legal papers. They will complete and file the Proof of Service (JC Form #SC-104).
  - Any individual at least 18-years-old and not a party to the lawsuit: He or she must fill out and file the Proof of Service (JC Form #SC-104) with the court at least five (5) days prior to the trial.
  - Certified Mail, sent by the court: For a fee (see the court's Fee Schedule (SDSC Form #ADM-001), available on the court's website, for the current fee amount), the court will send the claim to the other party by certified mail. ***Certified mail is not a guaranteed method of service and the fee is not refundable****. If someone other than the addressee signs the green certified mail card or it is returned unsigned, the service of process is invalid. The clerk will provide you with a tracking number. All inquiries re: tracking and/or delivery* ***must*** *be addressed with the U.S. Postal Service. You may track your mailing online using the U.S. Postal Service's website at www.usps.com*.
  - If you are requesting the court to send Certified Mail, your name and address will be listed on the green certified mail card as the "sender", and certified mail envelope as the return address. **BE ADVISED**: **You are responsible for filing with the court the original signed green card as proof of service.** The preferred method of filing the original green card is to attach it to the Return Receipt for Certified Mail – Original Green Card (SDSC Form #SC-060).

- **Request to Postpone Trial**: A reset or continuance of trial may be requested as follows:
  - **Request for Reset**: If the defendant **HAS NOT** been served, the clerk's office will reset the trial **ONE** time only. All requests for reset must be made in writing, preferably on a Request to Postpone Trial (JC Form #SC-150), at least two (2) court days prior to the original trial date. Requests received by the court less than two days before the trial will be considered by the judicial officer. It is possible that no decision will be made with regard to the request until the trial date. No fee is required.
    - **CERTIFIED MAIL**: The clerk's office can only **reset** the trial if the certified mail was returned unclaimed/undeliverable. If the certified mail envelope has not been returned, the request for reset must be made in court on the trial date.
  - **Request for Continuance**: If the defendant **HAS** been served, the clerk may grant no more than **ONE** continuance per party. All requests for continuance must be made in writing, preferably on a Request to Postpone Trial (JC Form #SC-150), at least ten (10) calendar days before the trial date (see Code Civ. Proc. § 116.570) **and the appropriate fee must be paid** (see the court's Fee Schedule, available on the court's website, for the current fee amount). The party requesting the continuance should mail or personally deliver a copy of the request to each of the other parties. Requests received by the court less than ten days before the trial will be considered by the judicial officer. It is possible that no decision will be made with regard to the request until the trial date.
    - **CERTIFIED MAIL**: The clerk's office can only process a **continuance** on a case served by certified mail if the green certified mail card was returned signed. If the green certified mail card is returned unsigned the request will be forwarded to the judicial officer for consideration. It is possible that no decision will be made with regard to the request until the trial date. Continuance requests received in cases with multiple defendants with one or more outstanding certified mail green card(s), will be forwarded to the judicial officer for consideration. It is possible that no decision will be made with regard to the request until the trial date.

- **Failure to appear at the scheduled trial may result in the case being dismissed** (see SDSC Local Rule 2.4.4). If the court dismisses the case without prejudice, you may be able to refile your case after paying a new filing fee. If your case is dismissed with prejudice, you may not refile your case.

- Change of Address or Phone Number: You must advise the court of any change of address or telephone number by filing a Notice of Change of Address or Other Contact Information (JC Form #MC-040). Judicial Council forms may be found at www.courtinfo.ca.gov.

| PARTY WITHOUT ATTORNEY (Name and address): | *FOR COURT USE ONLY* |
|---|---|
| TELEPHONE NO.: FAX NO.(Optional):<br>EMAIL ADDRESS (Optional): | |
| **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**<br>CENTRAL DIVISION, SMALL CLAIMS, 330 W. BROADWAY, SAN DIEGO, CA 92101 | |
| PLAINTIFF(S) | |
| DEFENDANT(S) | |
| **REQUEST FOR DISMISSAL – SMALL CLAIMS** | CASE NUMBER |

To the clerk of the court:

**I am the ☐ plaintiff ☐ defendant in this case and I am asking the court to dismiss *(select one of the following)*:**

☐ all claims I have in this case as to all parties.

☐ the claim I have in this case as to _____ only.
*(name of party)*

**I am asking the court to dismiss the claim or party above *(select one of the following)*:**

☐ Without prejudice *(disposes of the lawsuit and any claim about the same facts or dispute can only be filed before the legal deadline)*. You may wish to seek legal advice for clarification.

☐ With prejudice *(disposes of the lawsuit permanently)*. I understand that I am giving up the right to file another claim against defendant(s) about the same facts or dispute. You may wish to seek legal advice for clarification.

Date: _____

_____ _____
Type or Print Name Signature of Party *(or authorized agent, including title)*

Date: _____

_____ _____
Type or Print Name Signature of Party *(or authorized agent, including title)*

**NOTE: IF A CLAIM OF DEFENDANT HAS BEEN FILED, DISMISSAL OF THE PLAINTIFF'S CLAIM WILL NOT DISMISS THE CLAIM OF THE DEFENDANT, NOR WILL THE DISMISSAL OF A CLAIM OF DEFENDANT DISMISS A PLAINTIFF'S CLAIM.**

**DO NOT USE THIS DISMISSAL FORM IF JUDGMENT HAS BEEN RENDERED. YOU MAY WISH TO SEEK LEGAL ADVICE.**

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

## PRE-TRIAL CHECKLIST – SMALL CLAIMS TRIALS

☐ **SERVE Your Plaintiff's Claim and Order to go to Court to each named Defendant (JC Form #SC-100). Most common ways to serve a party include:**

- OPTION 1 – Pay the court a fee to mail your claim by Certified Mail. See the court's Fee Schedule (SDSC Form #ADM-001) for current fee amount. *Note: This is not a guaranteed method of service and the fee is not refundable.*
- OPTION 2 – Ask any individual at least 18 years-of-age, and not a party to the lawsuit, to serve one copy of your claim and the Notice of Case Assignment to EACH named defendant.
- OPTION 3 – Hire a professional process server to perform service.

☐ **COMPLETE and SUBMIT the Proof of Service Small Claims (JC Form #SC-104) a minimum of 5 days prior to the trial.**

- You MUST fill out a separate Proof of Service (JC Form #SC-104) for EACH named defendant.
- For additional information, see What is "Proof of Service"? (JC Form #SC-104B).
- For ANY additional questions about service of process, contact the Small Claims Legal Advisor at (858) 634-1777.

**If you are UNABLE TO SERVE the defendant, see Information For Small Claims Parties form (SDSC #SC-026) for information regarding how to request a reset or continuance of your trial date. For any additional questions, contact the Small Claims Legal Advisor at (858) 634-1777.**

☐ **COMPILE and ORGANIZE all documents you will use as evidence for your case.**

- Label paperwork with a "P" if you are the plaintiff, and a "D" if you are the defendant. It is recommended you staple, paperclip, or binder all papers.
- **DO NOT** file exhibits with the court unless you have been authorized to appear by telephone by the Court. Bring them with you on the day of trial.

☐ **GATHER any witnesses you will need for your case.**

- Make sure your witnesses are informed of the hearing date, time, and location.
- For information regarding the subpoena process contact the Small Claims Advisor at (858) 634-1777.

☐ **If you are UNABLE TO ATTEND your hearing date due to an emergency**…

- Review the Authorization to Appear (JC Form #SC-109) to see who is eligible to appear on your behalf. This form can be found on the Superior Court's website at www.sdcourt.ca.gov.

## ON THE DAY OF YOUR SMALL CLAIMS TRIAL:

☐ **Report to the San Diego Superior Court department listed on the Plaintiff's Claim and Order to Go to Small Claims or Notice of Hearing**.

- Be on time.
- Check-in with courtroom clerk or designated staff. Follow all directions.
- You will be offered the opportunity to mediate your case prior to trial. For additional information, see Mediation Information for Small Claims Parties form (SDSC Form #SC-063).
- Have your exhibits organized and ready to present to the Court.
- Be prepared to exchange for review by the opposing party any exhibit you plan on submitting the Court.
- Additional department requirements or information may be provided by the courtroom clerk or designated staff on the day of trial. Follow all directions.



Clear This Packet