

1. What is Small Claims and what is the highest amount I can sue for?

Small Claims is a court where you can exercise your rights to resolve a dispute. Attorneys are not permitted to represent either plaintiffs or defendants (attorneys are allowed in Small Claims appeals). You do not have to be a United States citizen to file or defend a case in Small Claims Court, but you must be at least 18 years old unless you have a Guardian Ad Litem. Your claims cannot be more than \$10,000 on a claim by a natural person. The limit on a claim by a business is \$5,000. You cannot file more than two cases over \$2,500 each calendar year. All other claims must be no more than \$2,500. Examples of disputes that can be settled in Small Claims Court are:

- The dry cleaner ruins your garment and refuses to pay to replace it.
- Your former landlord will not return your security deposit.
- Someone dents your car and refuses to pay for it. You may only sue for money for actual damages in Small Claims court.

2. Where do I file my claim and how much does it cost?

It is important to file your case in a proper court district. Depending on the reason you are suing, this can be where the dispute took place, where the person you are suing lives, where the firm you are suing does business or where an accident that led to the dispute took place.

The Clerk of the court will ask you to pay a filing fee as follows: Filing a claim for \$1,500 or less is \$30. Filing a claim for more than \$1,500 but less than or equal to \$5,000 is \$50. Filing a claim for more than \$5,000 but less than or equal to \$10,000 (by natural persons only) is \$75. Filing a claim by person who has filed more than 12 small claims in California within the previous 12 months is \$100. It is possible to apply for a waiver of the fee if you cannot afford to pay. The fee waiver form is called **Request to Waive Court Fees** and is obtained in the clerk's office.

3. How do I notify the defendant?

Proper legal notice must be given to the person being sued. This is called *service of process*. After you file your suit, a copy of the **Plaintiff's Claim and Order to Defendant** must be served on the defendant. You cannot serve this order; only someone other than the plaintiff and who is over the age of 18 may serve the claim form. The defendant may be served in one of three ways:

- Service by a Law Enforcement Officer – Please check with the Sheriff's Office about the cost and details about service.
- Personal or Substitute Service by anyone over the age of 18 who is not involved in the action.
- Certified Mail for \$15. Only the Clerk of the Court can attempt service by certified mail.

The person who served the form must complete a proof of service form that states exactly when and where the defendant was served. The proof of service form must be submitted to the court at least 5 days before the trial date.

4. If I am served with a Plaintiff's Claim and Order to Defendant, what should I do?

You must appear at the time and place set for the trial. If you do not appear in court at the proper time and date, you may lose the case by *default*. A judgment may be entered against you.

5. What if the plaintiff owes me money?

If you believe that the plaintiff owes you money as a result of the dispute, you can file a **Defendant's Claim and Order to Plaintiff** in the same Small Claims Court before the time of hearing. If you decide to file a small claims case against the plaintiff, the same rules and procedures apply.

6. How do I prepare for trial?

Bring the evidence of your claim or defense (any receipts, letters, invoices, cancelled checks or photographs) with you to court. To obtain certain documents or other evidence that you do not have, you can request a **Subpoena Duces Tecum**. This is a court order commanding a witness to bring certain documents or records to the hearing. If you have a witness that can give testimony to help your case, make sure they know when and where your trial is set. You can give them a **Subpoena**. This is a court order compelling the witness to appear and testify.

The Court does not provide interpreters for litigants. The Court will, however, provide an interpreter for hearing impaired persons. Litigants must notify the Court in advance if a sign-language interpreter will be needed. The plaintiffs will present their case first. Witnesses may be called and exhibits offered. The defendants will then have an opportunity to respond and present their case.

7. What if I cannot attend on the trial date?

If you cannot attend the trial, immediately notify the other parties and the Small Claims Court in writing to try to arrange for a postponement. Either the plaintiff or defendant can submit one written request to reschedule the hearing date. Requests must be made at least 10 days prior to the court date for a fee of \$10. If you do not show up for the trial and you have not made arrangements with the court to postpone it, the case may either be dismissed (if you are the plaintiff), or entered as a default judgment (if you are the defendant).

8. If I disagree with the judgment, can I appeal?

Only the defendant in a small claims case may file an appeal; however, the plaintiff may file and appeal on a counter claim (Defendant's Claim and Order to Plaintiff). The appeal must be filed in the clerk's office within 30 days after judgment or 10 days after the motion to vacate judgment was denied. The filing fee for an appeal is \$75 payable to the Clerk of the superior Court. The appeal will be heard in the Superior Court.

9. How do I collect my money?

A judgment is good for 10 years. If you do not receive payment on the judgment in the time specified by the Judge, you have many options available to collect. Forms for these actions are available in the Clerk's Office or on the Court's website and must be filed with the Court.

If you know where the defendant works or banks, you can obtain a **Writ of Execution**. A writ is an order to the Sheriff to collect the money from the defendant's paycheck or bank account. The fee for the issuance of a writ is \$25.

Another collection option is an **Abstract of Judgment**. An abstract places a lien on any real property the defendant might own. The abstract is filed with the County Clerk in the County where the property is located. The fee for issuance is \$25.

The debtor should complete a **Statement of Assets**, form SC 133. If they do not, and you do not know where the defendant works or banks, or if you do not know what assets the defendant has, you may calendar a **Judgment Debtor Hearing**. At the hearing, you will be allowed to question the defendant as to where he or she works and banks. You may ask the defendant about any vehicles, boats, real property, etc., that he/she owns. After obtaining this information, you may obtain a **Writ of Execution** from the Clerk's Office. Take the writ to the Sheriff's Office and the Sheriff will enforce the writ.

The application fee for the Judgment Debtor Hearing is \$60; proper notice must be personally served on the defendant. If the defendant fails to appear at the Judgment Debtor Hearing, you may ask the judge to issue a **Warrant of Arrest** for the defendant.

10. What do I do if the defendant pays me the money?

If you receive payment before the trial date, you must file a **Request to Dismiss**. If you receive payment after judgment has been entered, you must file a **Satisfaction of Judgment**. Both of these forms are available at the Clerk's Office where you filed your claim. If you fail to file these documents showing the satisfaction of payment, the defendant may be able to sue you.

The Court Mission:

The primary reason
for the Santa Barbara Trial
Court to exist is to:

**“Resolve disputes fairly, promptly,
economically and peacefully according
to law, in order to maintain public
order, protect individual rights and
liberties and reconcile relationships.”**

Superior Court of California
County of Santa Barbara

1100 Anacapa St., SANTA BARBARA, CA 93101
(805) 882-4520

Small Claims Advisor (805) 568-3303

312-C East Cook St., SANTA MARIA, CA 93454
(805) 614-6414

Small Claims Advisor (805) 349-1289

Local Court forms:

<http://www.sbcourts.org/ff/local-forms.shtm>

Judicial Council "fill-in and print" forms:

<http://www.courts.ca.gov/forms.htm>

<http://www.accesslaw.com/>

Other helpful Websites: (Partial List)

www.dca.ca.gov/smallclaims

<http://www.courts.ca.gov/selfhelp-smallclaims.htm>

www.sucorte.ca.gov (Spanish website)

Small Claims

**What I
Should
Know
About
Small
Claims**

