

Superior Court-Alameda County

Self-Help Services

Small Claims for Defendants

Small Claims Court is a special court in which disputes are resolved quickly and inexpensively. Hearings are informal. The person suing is the plaintiff, and the person being sued is the defendant. This handout is for the defendant, the person who has been sued. If you are a plaintiff, please refer to our “Small Claims for Plaintiffs” handout.

Limitations

- Individual person: \$12,500 limit in most case.*
- Business or public entity: \$6,250 limit.*
- Plaintiffs cannot file more than two cases for more than \$2,500 each during a calendar year.
- You cannot have a lawyer in court unless it’s an appeals hearing.
- However, you can ask a lawyer for advice before your trial.
- Defendants must appeal within 30 days of judgment.



*Claims for Covid-19 Rental Debt (starting 11/01/2021)

If your landlord is suing you for unpaid rental debt that became due from 3/01/2020 to 09/30/21, then there is no limit to how much they can sue for subject to the following:

- Landlords must have made a good faith effort to get rental assistance for the unpaid rental debt prior to filing.
- Landlords cannot include amounts that have been paid through rental assistance.
- Rental debt may include other payments due under the lease, such as parking and utilities.
- Landlords must use **SC-500** to file instead of the SC-100 form.

Options for Responding to the Plaintiff’s Claim

Now that you are served with a complaint filed in small claims court, the following are some options you may have:

- Option 1: Negotiate with the Plaintiff
- Option 2: Challenge the Court’s Jurisdiction
- Option 3: File a Cross-Complaint
- Option 4: Go to Trial

You may do one or all of the above according to your situation. Each option will be discussed in further detail below. Go to www.courts.ca.gov for forms mentioned below.

Option #1 – Negotiate with the Plaintiff

Now that you’ve been served with a Small Claims Complaint, you have several options available to you. If you can negotiate with the plaintiff and settle this matter, then this may be the fastest way for you to resolve this case and you will not need to go to court. If you do settle this matter, it is a good idea to put your settlement in writing. You will also need to file a Request for Dismissal signed by both parties. A defendant cannot file a Request for Dismissal without the plaintiff’s signature.

Request for Dismissal

To dismiss the case if you settle, you will need to file **CIV-110, Request for Dismissal**:

- The requesting party needs to indicate whether the dismissal should be with or without prejudice. With prejudice means the plaintiff cannot bring the case later. Without prejudice means that the plaintiff may be able to file the same claim again.
- Both parties need to sign the Request and file it with the Court.
- When the request is filed, the case will be dropped from the court trial calendar.

Option #2 – Challenge the Court’s Jurisdiction

If you believe the court does not have jurisdiction (authority) to hear the case, you may write the Court or file a **SC-105, Motion for Court Order and Answer** with an attached **SC-112A, Proof of Service by Mail**, to dismiss the case based on the facts. Please note that the plaintiff may still file a new case for the same issues if the case is dismissed without prejudice. Some common challenges are:

A. Statute of Limitations

This refers to the length of time a plaintiff has to file his or her claim. If the plaintiff waits too long, then s/he may lose the right to file an action against you. The length of time depends on the kind of claim it is. The statutes of limitation for some common claims are:

- Personal Injury: 2 years
- Injury to Real Estate or Personal Property: 3 years
- Oral Contract: 2 years.
- Written Contract: 4 years
- Medical Malpractice: 3 years from date of incident or 1 year from date of discovery (with reasonable diligence)

B. Improper Venue

Venue refers to both the county and the correct court location within a county with more than one court where the case will be heard. In general, venue is proper in the county where:

- The defendant lives or where the defendant’s business is located
- The damage or accident occurred
- The contract was signed, carried out, or the claimed violation occurred

Venue may be correct in more than one location. If so, the plaintiff may choose which venue to file in. But, if you believe the plaintiff filed in the wrong venue, you may challenge venue by writing a letter to the court explaining why the venue is wrong or file a motion asking the court to dismiss the case. Serve a copy on the all the parties.

- If the court agrees that the venue is wrong, the claim will be dismissed.
- If only the court location is wrong, but the county is correct, the court may transfer the matter to the right location. You will still need to appear for trial at the new court location.
- If the court disagrees, you still need to appear for trial. A new hearing date may be set if necessary. Check with the clerk about the Court’s decision.

C. Improper Service

If the plaintiff has not properly served you or filed a valid proof of service, then the court will not be able to hear the case. You may challenge the service, but the court will usually just continue the case to a later date to allow for proper service if granted.

D. Duplicate Case or Claims

If the plaintiff has filed the same case or claim against the same party for the same incident and a judgment has already been entered, the plaintiff may not file the same case or claim against that party a second time. If this is the case, you may file **SC-105** to dismiss the case or claim.

E. Covid-19 Rental Debt Defenses

If the plaintiff is filing for unpaid rental debt that became due from 3/01/2020 to 09/30/21 and any of the following applies, then you can ask that the case be dismissed:

- Plaintiff did not make a good faith effort to get rental assistance for the unpaid rental debt prior to filing.
- Plaintiff filed an SC-100 form instead of the **SC-500** to file

If the plaintiff included amounts that have been paid through rental assistance and/or other payments due under the lease, such as parking and utilities, then you can contest these charges at trial.

If you file a motion with any of these objections, the Court may decide in your favor before the hearing date, in which case you would not have to go to the hearing; or, the Court may decide at the time of your hearing. Check with the Court before your hearing date to see if a decision has been made and if you need to attend the hearing.

Option #3 – File a Cross-complaint

If you also have a claim against the plaintiff, then you may file a cross-complaint:

- Fill out **SC-120, Defendant's Claim**. Read the information on the first page.
- Serve the Plaintiff at least 5 days before the hearing, unless you received the Plaintiff's claim 10 days or less before the trial; then you may serve the Plaintiff at least 1 day before the trial.
- Prepare your cross-claim as if you are a plaintiff. See the "Small Claims for Plaintiffs" information sheet.
- Both complaints will be heard at the same time. See #4 below on "Go to Trial".

To file, make at least 2 copies of your cross-complaint (**SC-120**) and file the original and 2 copies (3 total) with the Court. You may need to file more copies if you are suing more than one cross-defendant. In Alameda County, you can file your small claims cross-complaint at the Civil Unit located at the following courthouses:

1. Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, CA 94612
2. Hayward Hall of Justice, 24405 Amador Street, Hayward, CA 94544

For In-Person and Drop Box filing hours, please visit:

<https://www.alameda.courts.ca.gov/general-information/locations-contact-information>

E-filing is also available. No copies needed, but additional fees may apply. For information on e-filing, please visit: <https://www.alameda.courts.ca.gov/online-services/e-filing>

You will need to pay the filing fee when you file or request a fee waiver. The filing fee depends on how much you are suing for. The fees are as follows:

- \$1,500 or less = \$30
- \$1,501 to \$5,000 = \$50
- \$5,001 to \$12,500 = \$75
- If 12 or more claims filed in past year = \$100 each

If you are not able to pay the filing fee, you may ask for a fee waiver, FW-001, Request to Waive Court Fees. The Court will accept the fee waiver and make a decision on it within 5 business days. If it is granted, you do not have to pay. If it is denied, you will have 10 days to pay from the date of the denial. The Court may also ask that you meet with a financial hearing officer prior to making its decision.

Option #4 – Go to Trial

If you disagree with the plaintiff's complaint and would like to contest the lawsuit, you need to appear for trial at the date and time listed on the Small Claims Complaint that you were served with. In Small Claims court, you DO NOT need to file a response. Here are a few tips on how to prepare for trial:

- Prepare your defenses for the Plaintiff's claim against you.
- Prepare a short summary of what happened for your cross-complaint.
- Organize all your evidence, including any receipts, documentation, or declarations, in a way that it would be easy for you and the judge to find the evidence. You may also want to label each piece of evidence so that it would be easy to refer to it. You will need to provide a copy of all documents to the plaintiff and judge.

Gathering Evidence:

You may subpoena a person or documents after the Complaint is served:

- **SC-107, Subpoena for Personal Appearance and Production of Documents.**
- Witness is entitled to costs of \$35/day or \$0.20/mile upon request.
- Personal service is required. File proof of service with the clerk.
- Documents that are subpoenaed will not be available until the trial.

If you need witness declarations:

- **MC-030, Declaration.** Notarize if witness is out of state.
- Bring original and copies for each party and the judge to the hearing.



How to Request a Postponement:

After service of the Complaint, either party may file a **SC-150, Request to Postpone Small Claims Hearing** at least 10 days before hearing; if asking to postpone less than 10 days in advance, you must show good cause for the postponement. You must also:

- Pay a \$10 filing fee
- Attach the **SC-112A, Proof of Service by Mail.**

Interpreters/Accommodations at Trial:

Be sure to let the Court know ahead of time if you need an interpreter or reasonable accommodations for the trial.

- You may request an interpreter using the Court's local form, ALA-INT-001, if you have a fee waiver. Otherwise, you may need to pay for the interpreter.
- You can also bring a family member or friend to interpret for you in case an interpreter is not available on the day of trial.
- If you need reasonable accommodations on the day of trial due to your disability(ies), please submit your request using the MC-410 at least 5 court days before the trial.

At the Trial

- Show up for court early! Dress appropriately. Address the judge as "Your Honor."
- Check in with the courtroom clerk and wait for your case to be called.
- The judge may have you and the other party participate in same day mediation before your case is called.
- The judge may render a verdict that day or take the case under submission and make the decision later. The court will then mail you the decision.

After the Judgment

A judgment is the Court's decision in the case. Contact the clerk's office if you do not receive a copy of the **SC-130 or SC-200, Notice of Entry of Judgment** form within 3 weeks after the trial. If the Court decides that you owe the plaintiff money, then you become a judgment debtor and the plaintiff becomes a judgment creditor. You have the following options once judgment is entered:

File an Appeal

If you showed up for trial and you disagree with the decision, you may file an appeal. Remember, plaintiffs CANNOT appeal unless you filed a Defendant's claim (SC-120) against the plaintiff(s). In small claims, parties cannot appeal the decision on their own claim. If you filed an SC-120 and you disagree with the Court's decision on your claim, you CANNOT appeal it. Here are some things to remember for appeals:

- File **SC-140, Notice of Appeal** within 30 days from the date the notice of entry of judgment is mailed to you. The filing fee is \$75.
- The appeal is a brand new hearing. Argue your case again. Bring your evidence.
- Lawyers can represent parties on appeal.
- The decision on appeal is final and binding. There are no further appeals.
- If an appeal is filed solely for the purpose of harassing or delaying the matter, the court may award attorneys fees and other costs to the other side.

Motion to Vacate a Default Judgment

If you did not appear for the trial and have good reason for not appearing, you may file a Motion to Vacate:

- File **SC-135, Notice of Motion to Vacate Judgment and Declaration** within 30 days of the date the notice of entry of judgment was mailed to you. If you were not properly served with the complaint, you may have up to 180 days to file the motion to vacate. The filing fee is \$20.



- If your motion is granted, and both parties are present, the court may also have the trial the same day, so be prepared to present your case.
- If the Court denies your motion, then you have a right to appeal the denial of your motion within 10 days.

Request to Correct Judgment

If the Court made a clerical or legal error, then you may file a Request to Correct Judgment.

- File **SC-108, Request to Correct or Cancel Judgment and Answer** within 30 days of the date of the mailing of the notice of entry of judgment.
- Legal error means that the judge applied the wrong law to the case (for instance, the court applied the wrong statute of limitations to the case (see *Option #2 above*).

Paying the Judgment

If you exhaust all your remedies and you still owe the judgment creditor money, here are some things to keep in mind:

- Judgments accrue 10% simple interest each year that they are not paid.
- Judgments are good for 10 years, and can be renewed for another 10 years at a time.
- Additional costs and fees may be added to the judgment if the judgment creditor has extra costs in trying to collect on the judgment.
- An unpaid judgment will stay on your credit report and may affect your credit until it is paid. In auto accident cases, your driver's license may also be suspended until you pay the judgment.

Pay to the Court

You may pay the judgment amount directly to the Court instead of the judgment creditor:

- File **Request To Pay Judgment To Court (SC-145)**. The fee is \$20.
- The Court will issue a Satisfaction of Judgment.
- The Court will notify the Creditor of the payment to the Court and the Creditor will need to request the money using p.2 of the **SC-145** form.

Pay in Installments

You may ask to pay the judgment in installments. To do so, you must:

- File a **Request to Make Payments (SC-220)** and **EJ-165, Financial Statement**.
- The Clerk will notify the judgment creditor and may schedule a hearing if the creditor opposes the request.

Acknowledgment of Satisfaction of Judgment

This is a document that shows you have paid the judgment.

- The plaintiff, or judgment creditor, needs to complete the **Acknowledgment of Satisfaction of Judgment (SC-290)** immediately after s/he receives payment in full, and file it with the Court.
- If the judgment creditor fails to do so, you may request an acknowledgment from the court clerk once you show sufficient proof that you paid the judgment.

Where to Get More Help:

1. **Alameda County Bar Association (ACBA) / Legal Access Alameda (LAA)** – (510) 302-2222. For legal advice and attorney referrals.
 - Community Legal Assistance Saturday Program (CLASP)
 - Lawyer Referral Service – provides referrals to private attorneys
2. **Alameda County Law Library** – (510) 208-4832
Provides legal information and resources.
3. **Nolo Press Books** – available at local bookstores. Provides legal information and guidance on various topics, including Small Claims and Representing Yourself in Court.
4. **Judicial Council of California** – <https://selfhelp.courts.ca.gov/small-claims-california>
Online resource for forms and legal information on Small Claims.
5. **Department of Consumer Affairs** - www.dca.ca.gov/publications/small_claims
Online resource for legal information on Small Claims.