

Superior Court-Alameda County

Self-Help Services

Small Claims for Plaintiffs

Small Claims Court is an option for those who are filing a limited civil case. Small claims cases are resolved quickly and inexpensively. Hearings are informal. In many cases, filing in small claims court is the fastest and easiest way for people to legally settle their disputes. The person suing is the plaintiff, and the person being sued is the defendant.

Limitations

- A person cannot sue for more than \$12,500 in most cases.
- A business or public entity cannot sue for more than \$6,250.
- Starting 11/1/21, there is no limit on the amount if suing for Covid-19 rental debt.* See page 2.
- You cannot bring more than two cases for \$2,500 or more each during a calendar year.
- You can't have a lawyer in court unless it is on appeal. However, you can ask a lawyer for advice before your trial.
- Plaintiffs cannot appeal.



Starting Your Case

Statute of Limitations

This refers to the length of time that you have to file your claim, starting from the date of the incident or, in some cases, from the date of discovery of the problem. If you wait too long, then you may lose your right to bring the claim. The length of time depends on the kind of claim it is. The statute of limitations 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)
- Claims Against Public Entities: see below.

Demand Letter

Before you file a small claims case, you must first make a demand on the other party. The demand may be in writing or verbal. Either way, the demand should include the following:

- Demand for money or other action in the alternative,
- A brief summary of incident,
- A deadline to meet demand, and
- Your intent to sue if defendant doesn't pay or do what you demand.

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

If you are a landlord suing a tenant for unpaid rental debt that became due from 3/01/2020 to 09/30/21, then there is no limit to how much you 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. See **SC-500-INFO** for more information.

Claims Against Public Entities

If you are filing a claim against a public entity / governmental agency, such as the police department, then there are additional steps you need to take:

1. File a complaint with the agency first and exhaust all administrative remedies. You must do file your complaint with the agency within 6 months (for death, personal injury, and injury to personal property claims) to a year (for all others) from the date of the incident.
2. If the agency denies your complaint, then you may file a claim in small claims court. Include a copy of the denial letter/decision with your claim. Note: you can't sue a federal agency in small claims. You must file a complaint in general civil court instead. You must do file your small claims case within 6 months from the date of the denial letter. See Govt. Code Sections 911.2 and 945.6.

Suing for Attorney Fees

If you are suing over attorney fees, then you must go to arbitration first if the agreement between you and your attorney requires you to do so. If so, then the following apply:

1. Contact the California State Bar Association for Mandatory Fee Arbitration at 415-538-2020 if your fee dispute is in Alameda County.
2. If you disagree with the decision, you may file your small claims complaint within 30 days after the Notice of Arbitration Award is mailed to you. Be sure to complete and file **SC-101** form along with your **SC-100** form.

Who Can File a Claim?

Anyone who is at least 18 years old, corporations or businesses, and emancipated minors can file a small claims action.

- Minors can also sue through an adult parent, relative, or friend who can act as their "guardian ad litem". The adult person will need to complete, file, and serve the **CIV-010, Application and Order for Appointment of Guardian Ad Litem** form along with the **SC-100** form.

Forms Needed For Filing

- Fill out **SC-100, Plaintiff's Claim**. Download from www.courts.ca.gov.
- If suing for Covid-19 Rental Debt, then fill out **SC-500**.
- For additional plaintiffs or defendants: **SC-100A or SC-500a**.
- If you are using a fictitious business name, you should also fill out the **SC-103, Fictitious Business Name Declaration**.

Where Can You File Your Claim?

You must file your claim in the county and court location where:

- The defendant lives or where the business is located, or
- The damage or accident occurred, or
- The contract was signed, was to be performed, or where the violation of the contract occurred.



Filing in the correct venue is very important. If you file in the wrong venue, your case can be dismissed and you will lose your filing fee. If more than one venue is correct, choose the most reasonable one.

Name Your Defendant Correctly:

You must sue the defendant under his/her exact legal name, especially if the defendant is a business.

- If the defendant is a corporation/association, check www.sos.ca.gov/business or call the Secretary of State: (916) 653-6812.
- Otherwise, check for the “fictitious business name” at the Recorder’s office. For Alameda County, (510) 272-6789 www.acgov.org or check www.csac.counties.org for other counties.
- If the defendant is a sole proprietor using a fictitious business name, you may name him/her as follows: “John/Jane Doe, individually and doing business as _____”.

Be sure to write the defendant’s correct address. This is especially important if you will be serving the defendant by certified mail through the court! You cannot list only a PO Box for the defendant or for yourself, you must also list a physical address.

How Much Does it Cost to File?

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.

How Do I File My Small Claims Case in Alameda County?

Make at least 2 copies of your complaint (**SC-100 or SC-500**) 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 defendant. In Alameda County, you can file your small claims 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

In-Person Filing Hours: 8:30am-3:00pm, Monday-Friday. You may make an appointment to file at <https://www.alameda.courts.ca.gov/online-services/online-appointment-services>

Drop Box Filing Hours: 3:00pm-4:00pm, Monday-Friday.

For Drop Box or mailing, please include a check or money order for the filing fees if you do not have a fee waiver and a self-addressed stamped envelope.

E-filing is also available. No copies needed and additional fees may apply.

More information can be found at: <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. See above for more information on the filing fees and fee waiver.

Serving Your Papers

How Does the Defendant Get the Papers?

As the plaintiff, you are responsible for having the defendant(s) served. With small claims, the defendant(s) must be served in California. There are only 2 exceptions (CCP 116.340):

1. The defendant owns real property that is the subject of your lawsuit, and
2. The lawsuit involves a car accident in California that the defendant was involved in.

Someone who is 18 years or older and not a party must serve the defendant(s) in one of the following ways:

1. **Personal Service**: Anyone who is not a party in your case and at least 18 years old can give a copy of your claim to the defendant. The person doing the service must complete and sign the **SC-104, Proof of Service** form. You will file the proof of service form with the court. For a fee, you can hire a registered process server to serve your papers. In Alameda County, the marshal or sheriff will serve the defendant only if you have a fee waiver.
2. **Substituted Service**: The server can also leave a copy of the claim with a competent person at least 18 years old at the defendant's business OR at the defendant's home. THEN the server must mail a copy to the defendant at that address. Service is complete 10 days after the copy is mailed. The server must complete and file the **SC-104** and **SC-104(a), Substituted Service** if a different person did the mailing.
3. **Certified Mail**: Only the clerk's office can serve the defendant by certified mail. You must pay a \$15 fee and follow up with the court to make sure that the service is valid as to the defendant. If not, then you must still timely serve the defendant by personal or substituted service.

In addition, please note the following:

- If you have a court certified fee waiver, you may ask the Alameda County Sheriff's office to serve the papers. Otherwise, you may hire a registered process server. Either way, you must tell them where and when to serve the defendant.
- To serve a business or public entity, see **SC-104C**.
- If you are serving a non-resident defendant in a car accident case, you must also serve the Director of the DMV by certified mail (CCP 116.340) at:
Office of the Director, Department of Motor Vehicles
2415 1st Avenue Mail Station F101, Sacramento, CA 95818

How Many Days Do You Have to Serve?

- **Personal:** 15 days before the hearing date (trial) if Defendant lives in Alameda county, 20 days if the defendant is outside the county
- **Substituted:** 25 days before the hearing (trial) if Defendant lives in Alameda county, 30 days if the defendant is outside the county
- **Certified mail:** Same as personal; service complete upon signing of return receipt.

In addition, you must file the proof of service at least 5 court days before the trial. If you fail to timely serve the defendant, your trial may be continued or delayed. If you need more time to serve, you may ask the court to reset the trial date before the trial or at the trial.

Before the Trial

Defendant's Claim

Defendants can file any claim(s) that they may have against you or any plaintiff by filing **SC-120, Defendant's Claim and Order**. All the claims will be heard at the same time.

- Same limits apply to the defendant's claim. See "Limitations" on page 1.
- Defendant's claim must be served at least 5 days before trial, or 1 day if the defendant received plaintiff's claim 10 days or less before the trial.
- Defendants can file the SC-120 regardless of whether the SC-100 or SC-500 was filed.

How to Amend a Claim Before the Hearing:

You may amend your small claims complaint in one of the following ways:

1. If you only want to change a party's name after the complaint has already been served, file **SC-114, Request to Amend Claim Before Hearing**.
2. If you want to change other information, such as adding a defendant or changing the amount, after the complaint has been served, then file a local Alameda County form "**Request to Amend Claim Before Hearing**".

Personal service or service by mail is acceptable to re-serve a defendant who has already been served. If the defendant has never been served, then you must serve the amended complaint as you would the original complaint (see above).

Gathering Evidence:

After the complaint is served, you may subpoena a person or documents:

- **SC-107, Subpoena for Personal Appearance and Production of Documents.**
- Witness is entitled to costs of \$35/day or \$0.20/mile.
- Personal service required. File proof of service with clerk.
- Documents 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 enough copies for each party and the judge to the hearing.

Get Ready for Your Hearing:

- Cases are usually scheduled 45 days after filing.
- Prepare a short summary of what happened. Organize your evidence: receipts, documents, etc. Prepare an index of your documents if necessary.
- Make copies for the judge and for each of the defendants!
- Accommodations: if you have a disability or need assistance, fill out and file **MC-410, Request for Accommodations by Persons with Disabilities and Response** – at least 5 days before the trial.

What if You Settle with the Defendant Before the Trial?

If you settle your matter before the hearing, you can dismiss the case. To dismiss, complete and file **CIV-110, Request for Dismissal**:

- Dismiss with prejudice means the plaintiff cannot sue for this same claim again.
- Dismiss without prejudice means plaintiff may sue again for the same claim, provided the statute of limitations on the claim has not expired.

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 you are 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.
- Serve the other party first. 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**, or **INT-300, Request for Interpreter (Civil)** 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.
- Either way, if you win your case, you may ask for fees and costs if you paid them.

Judgment

The Court's decision is usually mailed to you after the trial. Contact the clerk's office in 2 weeks if you do not receive a judgment.

- The decision appears on **SC-130 or SC-200, Notice of Entry of Judgment.**
- Judgment creditor is the party who wins and is allowed to collect the money.
- Judgment debtor is the party who loses and owes the money.



After Judgment

Collection is postponed for 30 days to allow defendants to appeal or file a motion to vacate.

- Lawyers can represent either party on appeal.
- Remember, plaintiffs CANNOT appeal in small claims!

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 **Notice of Entry of Judgment** form within 2 weeks after the trial. If 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:

Appeals

In small claims, plaintiffs CANNOT appeal their claim! Only defendants can appeal, unless they had filed a Defendant's claim (**SC-120**) against the plaintiff(s). Appeals must be done within 30 days of the date of the mailing of the notice of entry of judgment. If an appeal is filed, then keep in mind the following:

- 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 you are appealing 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 you have a good reason for not showing up or requesting a postponement, you may file a Motion to Vacate:

- File **SC-135, Notice of Motion to Vacate Judgment and Declaration** within 30 days from the date of the judgment. Cost is \$20.
- If your motion is granted, and both parties are present at trial, the court may also have the trial the same day, so be prepared to present your case.
- If the Court denies your motion to vacate, then you have a right to appeal the denial of your motion within 10 days of mailing of the decision.

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 from the date of the 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).

Getting Paid

Within 30 days after the mailing of the notice of entry of judgment, the debtor is required to (1) pay you or (2) mail you a **SC-133, Judgment Debtor's Statement of Assets**. If you do not hear from the debtor, check with the court to make sure that the debtor has not paid the court or asked the court to pay in installments.

If the debtor pays in full, you need to fill out **SC-290, Acknowledgment of Satisfaction of Judgment** and file the paper with the court within 30 days. Otherwise, you may be fined a penalty for not doing so in a timely manner.

If debtor does not pay within 30 days, please refer to our handout on "Collecting Your Judgment" for more information on your options. As the judgment creditor, here are some things to keep in mind:

- Judgments accrue 10% interest each year that they are not paid.
- Judgments are good for 10 years, and can be renewed before the expiration of each 10-year period.
- Additional costs and fees may be added to the judgment if you incur extra costs in trying to collect on the judgment.
- An unpaid judgment will stay on the debtor's credit report and may affect his/her credit until it is paid. Their driver's license may also be suspended until the judgment is paid.

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) – 1st Saturday of each month. By appointment only.
 - Lawyer Referral Service – provides referrals to private attorneys
 - Lawyers in the Library – provides legal information and advice on legal issues.
2. **Alameda County Law Library** – (510) 208-4800
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** – www.courts.ca.gov
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.

