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Your Responsibility When Using the Information Provided Below:

When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be located in different ways. We do not always have the resources to make changes to this material every time law changes. If you use this pamphlet, it is your responsibility to make sure that the law has changed and still applies to your situation. Most of the materials you need should be available in your facility's law library.

REMEDIES FOR LOSS OR DAMAGE OF PERSONAL PROPERTY BY CDCR STAFF

(October 2018)

We are sending you this letter in response to your request for advice or assistance concerning CDCR staff losing or damaging your personal property. We are not able to provide you with individual advice or assistance. However, we hope that the information in this letter will answer your questions and help you take steps to seek replacement or repair of your property or money compensation for the value of your property.

You may have to go through several steps to try to get a remedy for your lost or damaged property. In most cases, you will first have to file a CDCR Request for Interview, followed by a CDCR administrative appeal. If your CDCR administrative appeal is denied at all levels of review, you should then present a Government Claim to the California Department of General Services, Office of Risk and Insurance Management. If the Government Claim is denied, you can file a small claims lawsuit (or, in some situations, some other type of legal action).

1. Filing a Request for Interview (CDCR Form 22)

The CDCR has a process for people in prison or on parole to file “informal” grievances asking CDCR staff to provide information or take some type of action. This is done using a CDCR Form 22 Inmate/Parolee Request for Interview, Item or Service.¹

Get the official triplicate Form 22 from staff and fill it out. Identify what property was lost or damaged, provide any information you have as to what happened to it, and ask that it be returned, or repaired, or replaced, or that the CDCR compensate you with money equal to the value of the property. Keep the goldenrod-colored copy of the form and mail or give the other copies to the staff member who was most directly involved in the property loss or damage. If your request is

¹ 15 CCR § 3084.2(b); 15 CCR § 3086.

denied, submit the form to that staff member's supervisor. The timelines for staff to respond to a Form 22 are relatively short – three working days for the initial staff response and seven calendar days for a supervisor's review.²

As a general rule, you should file a Form 22 before you file a formal CDCR administrative appeal. This is because the Appeals Coordinator may refuse to allow you to file an administrative appeal if you have not first filed a Form 22.³

Also, it is important to know that filing a Form 22 request *does not stop the clock for administrative appeal timelines*⁴ and *does not exhaust administrative remedies for purposes of court actions*.⁵ Thus, if the deadline for filing an administrative appeal is drawing near, you should go ahead and file your administrative appeal and state on the administrative appeal that you have already filed a Form 22 and are awaiting a response.⁶

2. Filing a CDCR Administrative Appeal

If you are not satisfied by the responses to your Form 22 (or if you were not required to file a Form 22), you can file a CDCR Form 602 administrative appeal asking for repair, replacement, or compensation for your lost or damaged property.

You should submit your administrative appeal within 30 calendar days after the loss or damage or within 30 calendar days after you first learned about the loss or damage.⁷ If your appeal is denied at the first level of review, you should re-submit it to the second level of review. If your appeal is denied at the second level, submit it to the third level of review. You will have 30 calendar days after receiving a response to re-submit your appeal to the next higher level of review.⁸

For more information about administrative appeals, send a written request for a free administrative appeals manual to the Prison Law Office, General Delivery, San Quentin, CA 94964. The manual is also on the Resources page at www.prisonlaw.com.

² 15 CCR § 3086(f)(4), (h).

³ 15 CCR § 3086(e)(2); but see DOM § 54100.8 (appeals coordinator has discretion to allow administrative appeal to proceed if “submittal of a CDCR Form 22 is unwarranted and/or would not contribute to the outcome of the appeals process”). If there is any uncertainty, it is wise to submit a Form 22 before filing a formal appeal.

⁴ 15 CCR § 3086(e)(2).

⁵ 15 CCR § 3086(i).

⁶ 15 CCR § 3086(e)(2).

⁷ 15 CCR § 3084.8(b).

⁸ 15 CCR § 3084.8(b).

There are some special considerations for lost or damaged property appeals:

- ◆ All property damage or loss arising from the same event must be included in one administrative appeal.⁹
- ◆ You should attach any relevant CDCR Form 1083 Inmate Property Inventory documenting your possession of the property.¹⁰
- ◆ If property is lost or damaged during transfer, submit the appeal to the receiving prison.¹¹
- ◆ If property is lost or damaged during release, submit your appeal to the prison from which you were released, unless you have information showing that parole staff actually had possession of the property.¹²

The CDCR should accept responsibility for loss or destruction that was due to negligence or intentional wrong-doing by CDCR staff.¹³ On the other hand, the CDCR will not accept responsibility for loss or damage caused by you or by other incarcerated people.¹⁴ In some cases, there may be disputes about whether the property that was taken was contraband or disallowed by prison rules.

If the CDCR accepts responsibility for the loss or damage, prison staff will first try to either repair the damage or find a replacement item. If you refuse to accept a reasonable offer of repair or replacement, the CDCR may deny your administrative appeal.¹⁵

If the CDCR accepts responsibility for the loss or damage, and the item cannot reasonably be repaired or replaced, the CDCR should reimburse you with money for the value of the item. If the amount that the CDCR offers you is not acceptable, you should file your administrative appeal to the higher level(s) of review. Also, if the amount offered is over \$100, the reimbursement must be approved by the CDCR Appeals Chief at the third level of review and also by the state's

⁹ 15 CCR § 3084.9(f).

¹⁰ DOM § 54100.8.

¹¹ DOM § 54100.23.2.

¹² DOM § 54100.23.3.

¹³ 15 CCR § 3193(b).

¹⁴ 15 CCR § 3193(a).

¹⁵ 15 CCR § 3084.9(f)(5).

Government Claims program.¹⁶ When payment is approved, you will be required to sign a release form releasing the state from any further liability for the loss or damage.¹⁷

If the CDCR does *not* accept responsibility, you can file a Government Claim form, as described in Section 3, below.

3. Filing a Government Claim

If you completed the CDCR administrative appeal process, and the CDCR did *not* accept responsibility, your next step is to file a Government Claim form with the Department of General Services, Office of Risk and Insurance Management.¹⁸ This is an important step because completing the Government Claim process is usually required before you can file any sort of court action for your lost or damaged property.¹⁹

The deadline to file a Government Claim form is six months after the date of the wrongful or negligent act that caused the property loss or damage or after the date that you first discovered the loss or damage.²⁰ The six-month time limit is not extended just because you are in prison or on parole.²¹ If you get near the six-month deadline, and your CDCR administrative appeal has not yet been completed, you should go ahead and file your Government Claim form before you get responses through the third level of review. Also, if you miss the deadline for filing a Government Claim form, you can request permission to file a late claim, as described below.

To file a Government Claim, fill out and file a Government Claim form. A copy of this form with filing instructions is attached to this letter. The form should be available in the prison law libraries and is on the Department of General Services website at www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx. You could also try requesting a form by writing to the Government Claims Program, Office of Risk and Insurance Management, Department of General Services, P.O. Box 989052, MS 414, West Sacramento, CA 95798.

On the form, you must describe the facts supporting your claim, such as the type of property that was damaged or lost, the extent of the damage, who caused it, and when and how it occurred. Attach copies (not originals) of any documents that support the claim and copies of your administrative appeals and responses. Then sign the form and mail it to the address listed on the form, along with either a \$25 filing fee or a request for a fee waiver.²² Enclose a copy of the form

¹⁶ 15 CCR § 3084.9(f)(6); 15 CCR § 3193(b); DOM § 54100.23.5.

¹⁷ 15 CCR § 3084.9(f)(7).

¹⁸ The name of the agency that handles Government Claims has changed several times over the years. In the past, it was the Board of Control and then the California Victims Compensation and Government Claims Board.

¹⁹ See Government Code § 945.4; Government Code § 950.2.

²⁰ Government Code § 901; Government Code § 911.2.

²¹ Government Code § 945.6(c); see also *Torres v. California Dept. of Corrections and Rehabilitation* (2013) 217 Cal.App.4th 844 [158 Cal.Rptr.3d 876] (no tolling during parole).

²² Government Code § 905.2(b).

and a pre-addressed, postage-paid envelope; the clerk who files the form will stamp the extra copy and send it back to you as evidence that the claim was filed. It is also a good idea to keep a copy of the claim when you send it in case the package is lost or delayed.

To ask for a fee waiver, fill out the Affidavit for Waiver of Government Claims Filing Fee and Financial Information Form and attach a certified copy of your trust account balance sheet.²³ A sample copy of the fee waiver request form is attached to this letter. The fee waiver request form should be available in the prison law libraries, on the Department of General Services website, or by writing to the Department of General Services.

If you did not meet the six-month deadline for filing a Government Claim form, you will also need to ask for permission to file a late claim. You can ask for permission to file a late claim up to one year after you found out about the property loss or damage. When you fill out and send your claim form to the Department of General Services, attach a letter explaining why you did not file your claim on time.²⁴ The Department of General Services must allow a late claim to be filed in certain circumstances, including the following:

- ◆ The failure to present the claim on time was due to mistake, inadvertence, surprise, or excusable neglect and the state was not prejudiced by the failure to file a timely claim.²⁵ However, mere ignorance of the six-month deadline may not be good cause for missing the deadline.²⁶
- ◆ The person who suffered the damage or loss was a minor during all of the six-month deadline period.²⁷
- ◆ The person who suffered the damage or loss was unable to present a timely claim due to physical or mental incapacitation during all of the six-month deadline period.²⁸

The Department of General Services has 45 days to act on a request to file a late claim.²⁹ If it grants the request, it will file the claim and then either grant or deny the claim itself. If it does not act on a

²³ Government Code § 905.2(c).

²⁴ Government Code § 911.4. The one-year limit does not include time during which the plaintiff is mentally incapacitated and does not have a guardian or conservator. Government Code § 911.4(c).

²⁵ Government Code § 911.6(b)(1); see *Torbitt v. Fearn* (1984) 161 Cal.App.3d 860 [208 Cal.Rptr. 1].

²⁶ See *Harrison v. County of Del Norte* (1985) 168 Cal.App.3d 1 [213 Cal.Rptr. 658].

²⁷ Government Code § 911.6(b)(2).

²⁸ Government Code § 911.6(b)(3).

²⁹ Government Code § 911.6(a).

request to file a late claim, the request is considered to be denied when 45 days have passed.³⁰ If the request is denied (either by a denial notice or failure to act, you may be able to seek court review.³¹

If you do not properly fill out the claim form, miss the claim deadline (and haven't requested permission to file a late claim), or do not submit the proper fee or fee waiver request, the Department of General Services must notify you of the defects,³² and may allow you to correct the defects.³³

The Department of General Services should act on a claim within 45 days after it is filed.³⁴ In most cases, the Department of General Services will send a formal notice stating that the claim was denied. Sometimes the Department of General Services does not act on the claim, or does not send any notice of its decision denying the claim. If the Department of General Services does not act on a claim or does not send a notice of denial, the claim is deemed denied as of 45 days after it was filed.³⁵

4. Filing a Small Claims Lawsuit

If you filed a Government Claim, and it was denied, you can seek relief through a court action. A small claims lawsuit is the speediest and easiest type of legal action for getting compensation for lost or damaged personal property. You may bring a small claims court action for an amount of damages up to \$10,000.³⁶

Because the state of California and its agencies are immune from most lawsuits for money damages, people in prison usually cannot bring small claims actions against the CDCR or the prison itself. However, people may sue individual CDCR staff members who lost or damaged the property

³⁰ Government Code § 911.6(c).

³¹ A Department of General Services' denial of a request to file a late claim can be challenged by a petition in the superior court of the county where the loss or damage occurred, filed within six months after the date that the Department of General Services denied the request. (Government Code § 946.6; see e.g. *Renteria v. Juvenile Justice, Department of Corrections and Rehabilitation* (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777] (late petition was excused by a court when attorney's secretary mistakenly erased the filing deadline from the attorney's calendar). The rules for such a petition are in Government Code § 946.6, Code of Civil Procedure § 1005(b), and Code of Civil Procedure §§ 1010-1013. If the court grants the petition, the deadline for you to file a lawsuit will be 30 days after the order. Government Code § 946.6(f). If the court denies the petition, you can appeal the issue to the state court of appeal and then request review by the California Supreme Court. However, if these efforts are unsuccessful, you will not be allowed to proceed with a lawsuit.

³² Government Code § 910.8; Government Code § 911.3(a).

³³ Government Code § 910.4; Government Code § 910.6; Government Code § 911.4. If the Department of General Services does not give notice of the defect, it waives the right to argue in court that that the plaintiff did not exhaust the Government Claims process. Government Code § 911; Government Code § 911.3(b); *Sykora v. Department of State Hospitals* (2014) 225 Cal.App.4th 1530, 1535-1538 [171 Cal.Rptr.3d 583].

³⁴ Government Code § 912.4.

³⁵ Government Code § 912.4(c).

³⁶ Code of Civil Procedure § 116.221.

or who set the policy requiring destruction of the property. If in doubt, name both the CDCR and the individual staff members as defendants to the lawsuit.

Small claims lawsuits are filed on standard complaint forms. State in your complaint that you have exhausted all administrative remedies (meaning you completed the CDCR administrative appeal process and the Government Claim process) prior to filing the small claims complaint. The complaint must be filed in the county where the property loss occurred or where the defendant resides.³⁷ There is a fee for filing a small claims action, but if you cannot pay the fee, you may ask the court to waive the fee.³⁸ The basic court forms for filing a small claims suit and fee waiver request (Forms SC-100-INFO, SC-100, SC 100-A and MC-030) are attached to this letter. Forms should also be available by writing to the clerk of the local superior court.

You do not need to appear in court to litigate a small claims case. Instead, you can send the court documents supporting your claim, including declarations written by yourself and/or others and signed “under penalty of perjury.”³⁹ Also, a family member, friend, or other advocate can go to the court hearing on your behalf, so long as that person is not a lawyer.⁴⁰

Generally, you cannot appeal if you file a small claims action and the court denies your claim.⁴¹

The California Department of Consumer Affairs publishes a free self-help manual on small claims actions called *The Small Claims Court: A Guide to Its Practical Use*. The Prison Law Office can provide a free copy of that manual upon request. The manual also is available at www.dca.ca.gov/publications or by writing to Department of Consumer Affairs, Office of Publications, Design & Editing (PDE) 1625 North Market Boulevard, Suite N-112, Sacramento, CA 95834. Also, forms and more information on small claims lawsuits can be found on the California Courts’ Self-Help Center website at www.courts.ca.gov/selfhelp-smallclaims.htm.

Other types of legal actions for money damages are beyond the scope of this letter, but here is some additional information:

- ◆ If your lost or damaged property was worth more than \$10,000, (making a small claims action unavailable), you can file a state tort lawsuit against the prison staff who caused the loss or damage. However, state tort lawsuits more complex and more difficult to litigate from inside prison than small claims lawsuits.

³⁷ Code of Civil Procedure § 116.370; Code of Civil Procedure § 116.395.

³⁸ Code of Civil Procedure § 116.320(c).

³⁹ Code of Civil Procedure § 116.540(f).

⁴⁰ Code of Civil Procedure §§ 116.510-116.530.

⁴¹ Code of Civil Procedure § 116.710(a).

- ◆ A petition for writ of mandate may be used to get the CDCR to return property or its value in money (called a claim for “specific recovery of property”) that was lost or destroyed by prison staff,⁴² *except* that a mandate petition cannot be used to seek compensation for property that was confiscated or destroyed as being contraband.⁴³
- ◆ A petition for writ of habeas corpus *cannot* be used to seek compensation for lost or damaged property.⁴⁴
- ◆ Except in very unusual circumstances, a person will *not* be able to get compensation for lost or damaged property through a federal civil rights (“section 1983”) action.⁴⁵

attached: Government Claim forms, small claims forms

⁴² *Escamilla v. California Dept. of Corrections and Rehabilitation* (2006) 141 Cal.App.4th 498 [46 Cal.Rptr.3d 408].

⁴³ *Flores v. California Dept. of Corrections and Rehabilitation* (2014) 224 Cal.App.4th 199, 205-208 [168 Cal.Rptr.3d 204].

⁴⁴ See *Flores v. CDCR* 2014) 224 Cal.App.4th 199, 206 [168 Cal.Rptr.3d 204] (state tort lawsuit is a proper action to seek return of or compensation for property wrongfully confiscated as contraband); *Escamilla v. CDCR* (2006) 141 Cal.App.4th 498, 509-510 [46 Cal.Rptr.3d 408].

⁴⁵ *Hudson v. Palmer* (1984) 468 U.S. 517, 533 [104 S.Ct. 3194; 82 L.Ed.2d 393] (deprivation of property does not violate due process where state has available and adequate post-deprivation remedies); *Logan; Blueford v. Prunty* (9th Cir. 1997) 108 F.3d 251, 255-526 (person cannot bring due process claim for loss of funds unless they show that state does not provide an adequate post-deprivation remedy); *Barnett v. Centoni* (9th Cir.1994) 31 F.3d 813, 816-817 (California provides adequate post-deprivation remedies for property damage or confiscation). A § 1983 suit may be allowed when a person’s court transcripts or other legal material are lost or destroyed and deprived the person of their constitutional right of access to the courts. *Vigliotto v. Terry* (9th Cir. 1989) 873 F.2d 1201, 1202-1203. There is also a possibility that a § 1983 would be allowed where loss or destruction of property resulted in the person being deprived of some basic human necessity and thus violated the prohibition against cruel and unusual punishment or the disability rights laws.



**Government Claims Program
Office of Risk and Insurance Management
Department of General Services
P.O. Box 989052, MS 414
West Sacramento, CA 95798-9052**

1-800-955-0045 • www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx

Filing Fee Requirement

The Government Code requires a \$25.00 filing fee for all claims presented to the Office of Risk and Insurance Management (ORIM). Materials submitted without a filing fee will not be processed. Checks or Money Orders should be made out to the State of California. If you cannot afford the filing fee, you may request a waiver. For most claim types, the filing fee is refunded if the claim is paid.

IMPORTANT NOTICE REGARDING CLAIMS FOR STALE-DATED WARRANTS (UNCASHED CHECKS):

Due to changes in State law, effective July 1, 2016, claims for stale-dated warrants (uncashed checks) DO NOT require the \$25.00 filing fee and should be filed directly with the department that issued the original check. For example, claims for stale-dated State tax refund checks should be filed with the Franchise Tax Board. However, this form can be used to file such claims. For more information, please contact GCP at 1-800-955-0045.

What types of claims can be filed with Government Claims?

Claims can be filed for losses you believe were caused by the action, or inaction, of a state agency. Claims may include:

- Damage to real or personal property
- Refund of a tax, fee, or penalty
- Reimbursement for state employee property loss, benefits, salary, or travel expenses
- Contract disputes

What types of claims should not be filed with Government Claims?

Claims against local government agencies must be filed with the responsible local agency. Claims against a University of California (UC) campus must be filed with the UC Regents. Claims against a California State University (CSU) campus must be filed with the campus itself. Claims against school districts or community college districts must be filed with the responsible district. Claims against judicial branch entities must be filed with the Judicial Council.

Delegated Authority Claims

The VCGCB grants some agencies delegated authority to resolve claims under \$1,000.00. If you have a claim for less than \$1,000.00, you may file directly with the following entities: California State Teachers' Retirement System, Department of State Hospitals, Department of Motor Vehicles, California Highway Patrol, Department of Consumer Affairs, California Department of Corrections and Rehabilitation, California State Coastal Conservancy, and Department of General Services.

The Delegated Authority of the California Department of Transportation (Caltrans)

By law, Caltrans has delegated authority to resolve claims for dollar amounts within the jurisdiction of the small claims courts. The current jurisdiction of the small claims courts is \$10,000.00. Therefore, you may file claims for damages less than \$10,000.00 directly with Caltrans.

Claims for Subrogation:

Claims for subrogation should name the insurance company seeking compensation as the claimant. The insurance company employee handling the claim should be named the representative. Please provide the name of your insured in the space provided (section 7).

What are the time limits for filing a claim?

Claims relating to the death or injury of a person, or damage to personal property or crops, must be filed no later than six months after the date of the incident. Other claims must be filed no later than one year after the date of the incident. You can request permission to file a late claim. You may want to consult an attorney if you are not sure how the time limits apply to your claim.

Instructions for filling out this form:

1	Provide the full name of the person claiming damage or injury. If the claimant is a business or entity other than an individual, put the name of the entity here.
2	Provide a daytime telephone number.
3	Provide an email address. <i>(Optional)</i>
4	Provide a complete mailing address.
5	If you are an inmate or a patient at a state hospital, please provide your identification number.
6	If the claim is being filed on behalf of a minor (someone younger than 18), please give the minor's birthdate.
7	If you are an insurance company claiming subrogation, please provide your insured's name here.
8	If your claim relates to another claim or claimant, please provide the claim number or claimant's name here.
9	You may wish to consult an attorney for assistance with filing a claim, however it is not required. If an attorney or other person (such as the parent or legal guardian of a minor or conservator of an adult) is representing you, please complete this section. If this section is completed, all correspondence regarding this claim will be sent to the representative.
10	Provide a daytime telephone number, including area code, for the attorney or representative.
11	Provide an email address for the attorney or representative. <i>(Optional)</i>
12	Provide a complete mailing address for the attorney or representative.
13	Describe the relationship of the attorney or representative to the claimant.
14	<p>If this claim is regarding a stale-dated warrant (an uncashed check) more than three years old, provide the:</p> <ul style="list-style-type: none"> • date of issue • amount • The name of the agency that issued it. • warrant number <p>Attach a copy of the front and back of the warrant. Please note: It is best to claim replacement warrants directly from the agency that issued the originals.</p>
15	<p>State the exact date of the incident that you believe caused the damage or injury.</p> <ul style="list-style-type: none"> • If the incident took place over more than one date, provide both the beginning and ending dates. • If the incident is ongoing, please provide the beginning date and the most recent date it occurred. • Late Claims: <ul style="list-style-type: none"> ○ The Board must receive claims relating to the death or injury of a person, or damage to personal property or growing crops, no later than six months after the date of the incident. ○ If your claim is for equitable indemnity, the filing deadline is six months after the date you were served with the underlying lawsuit. If such a claim is filed more than six months from the date of the incident, attach a written explanation for filing late. • Other claims with deadlines must be received no later than one year after the incident date.
16	Provide the name of the state agency that you believe caused the damage or injury. "State of California" alone is not sufficient. Please spell out the name of the agency and include the name(s) of any state employee(s) that were involved.
17	<p>Enter the total dollar amount being claimed.</p> <ul style="list-style-type: none"> • If you believe the damages are continuing, or anticipated in the future, show a "+" after the dollar amount. • If the total dollar amount exceeds \$10,000, note whether the claim is a limited civil case or a non-limited civil case. • Provide an explanation of how you computed the total amount. • You may declare expenses incurred as well as expenses you expect to have in the future. <p>Attach copies of all bills, payment receipts, and cost estimates.</p>
18	For all claims involving real property, state-owned buildings or parking lots, and roadway- or vehicle-related claims, provide the street address, city, county, state highway number, road numbers, and/or post mile markers where you believe the damage or injury occurred. Real property includes land, buildings and other fixed structures. Roadway- or vehicle-related claims occurred on a state road or involved a state vehicle.
19	Describe the specific damage or injury that you believe resulted from the incident. You may attach additional information.
20	Describe the circumstances that led up to the damage or injury. State all the facts that support your claim. If it applies, describe the dangerous condition of the public property. If a law enforcement or insurance Collision/Incident Report is submitted with the claim, this section must still be completed in your own words.
21	Explain why you believe the state agency is responsible for the damage or injury.
22	Provide the vehicle license number and any other identifying information, if the claim involves a state vehicle.

23	This section must be completed if the claim involves a motor vehicle. <ul style="list-style-type: none">• Indicate whether a claim has been filed with your insurance carrier.<ul style="list-style-type: none">○ If a claim has been filed with your insurance carrier, provide the name, telephone number, and mailing address of the insurance carrier. Also include your policy number and the amount of the deductible.○ If you have received payment, please indicate the date payment was received and the dollar amount.
24	The claimant or the claimant's attorney or representative must sign this form.
25	Be sure to attach the \$25 filing fee. <ul style="list-style-type: none">• Please make your check or money order payable to the State of California.• If you cannot afford the filing fee, you can fill out a "Filing Fee Waiver Request", and attach it to this form.<ul style="list-style-type: none">○ You obtain the filing fee waiver request form at www.dgs.ca.gov/orim or by calling: 1-800-955-0045.



For Office Use Only

Government Claims Program
Office of Risk and Insurance Management
Department of General Services
 P.O. Box 989052, MS 414
 West Sacramento, CA 95798-9052

1-800-955-0045 • www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx

Clear Form

Print Form

Is your claim complete?

- Include a check or money order for \$25 payable to the State of California.
- Complete all sections relating to this claim and sign the form. Please print or type all information.
- Attach copies of any documentation that supports your claim. Please do not submit originals.

Claimant Information Use name of business or entity if claimant is not an individual

1	<i>Last name</i>	<i>First Name</i>	<i>MI</i>	2	Tel:
				3	Email:
4	<i>Mailing Address</i>			<i>City</i>	<i>State</i> <i>Zip</i>
5	Inmate or patient number, if applicable:				
6	Is the claimant under 18?		If Yes, please give date of birth:		
7					

If you are an insurance company claiming subrogation, please provide your insured's name in section 7.

8	If your claim relates to another claim or claimant, please provide the claim number or claimant's name in section 8.				
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Attorney or Representative Information

9	<i>Last name</i>	<i>First Name</i>	<i>MI</i>	10	Tel:
				11	Email:
12	<i>Mailing Address</i>			<i>City</i>	<i>State</i> <i>Zip</i>
13	Relationship to claimant:				

Claim Information Please add attachments as necessary

14	Is your claim for a stale-dated warrant (uncashed check)? <input type="radio"/> Yes <input type="radio"/> No <i>If No, skip to Step 15.</i>				
	State agency that issued the warrant:				
	Dollar amount of warrant:		Date of issue:		
	Warrant number: MM/DD/YYYY				
15	Date of Incident:				
	Was the incident more than six months ago?				<input type="radio"/> Yes <input type="radio"/> No
	If YES, did you attach a separate sheet with an explanation for the late filing?				<input type="radio"/> Yes <input type="radio"/> No
16	State agencies or employees against whom this claim is filed:				
17	Dollar amount of claim:				
	If the amount is more than \$10,000, indicate the type of civil case:		<input type="radio"/> Limited civil case (\$25,000 or less) <input type="radio"/> Non-limited civil case (over \$25,000)		
	Explain how you calculated the amount:				

18	Location of the incident:		
19	Describe the specific damage or injury:		
20	Explain the circumstances that led to the damage or injury:		
21	Explain why you believe the state is responsible for the damage or injury:		
22	Does the claim involve a state vehicle?		<input type="radio"/> Yes <input type="radio"/> No
	If YES, provide the vehicle license number, if known:		
Auto Insurance Information			
23			
	<i>Name of Insurance Carrier</i>		
	<i>Mailing Address</i>	<i>City</i>	<i>State</i> <i>Zip</i>
	Policy Number:	Tel:	
	Are you the registered owner of the vehicle?		<input type="radio"/> Yes <input type="radio"/> No
	If NO, state name of owner:		
	Has a claim been filed with your insurance carrier, or will it be filed?		<input type="radio"/> Yes <input type="radio"/> No
	Have you received any payment for this damage or injury?		<input type="radio"/> Yes <input type="radio"/> No
	If yes, what amount did you receive?		
	Amount of deductible, if any:		
	Claimant's Drivers License Number:	Vehicle License Number:	
	Make of Vehicle:	Model:	Year:
	Vehicle ID Number:		
Notice and Signature			
24	I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).		
			Date:
	<i>Signature of Claimant or Representative</i>	<i>Printed Name</i>	
25	Mail this form and all attachments with the \$25 filing fee or the "Filing Fee Waiver Request" to: Government Claims Program, P.O. Box 989052, MS 414, West Sacramento, CA 95798-9052. Forms can also be delivered to the Office of Risk and Insurance Management, 707 3rd street, 1st Floor ORIM, West Sacramento, CA 95605.		

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STATE OF CALIFORNIA
FEE WAIVER REQUEST

DGS ORIM 005 (Rev. 05/2018)

DEPARTMENT OF GENERAL SERVICES
OFFICE OF RISK AND INSURANCE MANAGEMENT

CLAIMANT INFORMATION

FIRST NAME	LAST NAME
CLAIM NUMBER (IF KNOWN)	TELEPHONE NUMBER

If you are an inmate in a correctional facility, please attach a certified copy of your trust account balance.

INMATE IDENTIFICATION NUMBER

FINANCIAL INFORMATION

I am receiving financial assistance from one or more of the following programs

Supplemental Security Income (SSI) and State Supplemental Payments (SSP) California Work Opportunity and Responsibility to Kids (CalWORKS) CalFresh/SNAP (formerly Food Stamps) General Relief (GR) or General Assistance (GA)

Number of household members and monthly household income are within one of the categories below.

Number of Household Members	Maximum Monthly Household Income
1	\$1,012
2	\$1,372
3	\$1,732
4	\$2,092
5	\$2,452
6	\$2,812

For each additional household member beyond 6, add \$360 to the maximum monthly household income

CLAIMANT CERTIFICATION

I request a waiver of the \$25 fee to file a government claim. I declare under penalty of perjury, per Penal Code Section 72, that the information provided on this application is true and correct.

SIGNATURE	DATE
-----------	------

Department of General Services
Office of Risk and Insurance Management
Government Claims Program
PO Box 989052, MS 414
West Sacramento, CA 95798-9052

1-800-955-0045 - www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx

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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.
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.)

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.

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*):

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

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. _____	_____	_____	_____
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.
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).
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.
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.)



"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 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.

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.

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).)



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 Accommodations. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo bien inglés? Pregúntele al secretario de la corte lo más pronto posible si en el juzgado habrá un intérprete disponible y cómo solicitarlo. No siempre están disponibles los intérpretes de la corte. Otra opción es llevar a un adulto que pueda interpretar para usted siempre que esa persona no sea un testigo ni un abogado. O puede pedir a la corte una lista de intérpretes particulares disponibles para contratar.

¿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”.
- **Aceptar 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.

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).)

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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

Date: _____

Type or print your name

▶ _____
Sign your name

▶ _____
Sign your name

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SC-104A Proof of Mailing (Substituted Service)

Case Number: _____

- This form is attached to Form SC-104. Use this form ONLY if you mailed the documents in ① and someone else personally gave them to the person, business, or public entity served.

Notice to Server

You must:

- Be at least 18 and **not listed in this lawsuit.**
- Fill out ①–⑥ of this form and attach it to Form SC-104.

① Documents served by mail:

- 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. Other (*specify*): _____

② Name and address of the person, business, or public entity served:

- a. If you served a **person**, write the person's name and address below:

Name: _____

Address: _____
Street City State Zip

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

Business or Public Entity Name Person Authorized for Service Job Title

Address: _____
Street City State Zip

- ③ I put copies of the documents listed in ① above in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person, business, or public entity listed in ② and mailed the envelope by leaving it at (*check one*):

- a. A U.S. Postal Service mail drop *or*
- b. An office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

- ④ I mailed the envelope:

a. On (*date*): _____ b. From (*city, state*): _____

- ⑤ My address is: _____

- ⑥ I declare, under penalty of perjury under California State law, that the information above is true and correct.

Date: _____

Type or print server's name

Server signs here after mailing