

MARIN COUNTY SUPERIOR COURT

3501 Civic Center Drive, Room 113 • P.O. Box 4988 • San Rafael, CA 94913-4988 • (415) 444-7040

INFORMATION FOR THE SMALL CLAIMS PLAINTIFF

TRY MEDIATION PRIOR TO FILING A SMALL CLAIM

The Marin County District Attorney’s Consumer Protection Unit (CPU) can attempt to mediate your consumer vs. business, tenant - landlord, neighborhood, community, animal, and homeowner association dispute before filing an action in small claims court. The CPU, located in Room 145 of the Civic Center, is open Monday through Friday, 8:00 AM to 12:00 PM and 1:00 PM to 4:00 PM. Walk-ins are welcome, or call (415) 473-6450.

CPU cannot provide legal advice or discuss the merits of any civil action.

GENERAL INFORMATION

- a) Small Claims filings by fax are not allowed.
- b) Send self-addressed stamped envelopes when handling claims through the mail.
- c) Businesses will be required to file Fictitious Name Declarations before filing Small Claims (non-profits are exempt)
- d) If you have had an arbitration of an attorney-client fee dispute, obtain form from clerk.

WHO CAN FILE IN SMALL CLAIMS

- a) Please read "*Information for the Small Claims Plaintiff*" (Judicial Council Form SC-100-INFO).
- b) If the claim arises out of a vehicle accident and property damage is alleged, the registered owner must file the claim (Vehicle Code 17150). If the claim arises out of a vehicle accident, the driver and/or the registered owner of the other vehicle may be named (Vehicle Code 17152).

HOW TO FILE SUIT AGAINST A CORPORATION

Before filing your claim, do the following:

If you are suing a corporation, get the correct name of the corporation and the name of an officer of the corporation with title or the agent for service of process by conducting a Business Search on California’s Secretary of State’s website at: <https://businesssearch.sos.ca.gov/>. Or, you can contact the Business Entities Division at (916) 657–5448.

HOW TO FILE A SMALL CLAIM

- a) Ask clerk for "*Fictitious Name Declaration*" (Judicial Council Form SC-103) if you are suing under a fictitious business name. Complete this form.
- b) Ask clerk for "*Plaintiff's Claim and Order to Defendant*" (Judicial Council Form SC-100).
- c) Present completed "*Fictitious Name Declaration*" form, if applicable, and completed "Claim and Order" form to clerk for filing and pay required filing fee. **YOU MAY MAIL IN YOUR CLAIM PAPERS AND FILING FEE TO AVOID WAITING IN LINE. ENCLOSE A SELF-ADDRESSED STAMPED ENVELOPE.**
- d) Pay required filing fees to the clerk as follows:

Filing claim for \$1,500 or less	\$30.00
Filing claim for more than \$1,500, but less than or equal to \$5,000	\$50.00
Filing claim for more than \$5,000, but less than or equal to \$10,000 (claim by natural persons only).....	\$75.00
Filing claim by person who has filed more than 12 small claims in Calif. within the previous 12 months	\$100.00

If you cannot afford the fee for filing a small claim case or for serving the claim on the other party, ask the clerk for "pauperis" forms. You will be given a packet of forms/ instructions to read and complete. The clerk or the judge will consider your request.

Certified mailing fee is \$15.00 per defendant. (Only the Court may notify the defendant by certified mail.)

Postponement of hearing fee is \$10.00 per request. [CCP 116.570(d)]

HOW TO NOTIFY DEFENDANT(S)

- a) Defendant must be served within the State of California.
- b) If the certified mail service is defective, you will still be required to appear in Court and reset the case for personal service only and second hearing date.
- c) If you have the defendant(s) served by the Court by certified mail, check with the Court, (415) 444-7040 before the hearing date to find out whether defendant(s) accepted the certified letter. If not accepted, you must have the defendant(s) served personally.
- d) Proof of service must be filed with the clerk no later than five court days prior to the court date.

CONTINUING A HEARING DATE

After service is effected on the defendant, the Court will grant one continuance to each side if written notification and fee of \$10.00 is received by the Court 10 court days prior to the hearing date. A copy of this notification must be mailed to the other side by the requesting party.

HOW TO RESET A HEARING DATE

If you have been unable to serve the defendant prior to the hearing date, you may reset the date with the clerk before the hearing date or appear in court on the hearing date and ask the Court to reset the hearing date. Otherwise, your case will be dismissed without prejudice on the hearing date and you will have to re-file your action.

SCHEDULING OF SMALL CLAIM CASES

Small Claim trials are heard each Tuesday and Friday at 8:30 AM and 10:30 AM.

WHO MUST BE PRESENT

You should bring your original exhibits with your name labeled at the top, plus two copies of each, to Court. Leave the copy with the Court, if requested. To pick up exhibits after hearing and appeal period has expired, contact Exhibits at (415) 444-7080 to schedule an appointment.

IMPORTANT: BE ON TIME

LOSING PARTY APPEAL RIGHTS

- a) Plaintiff may not appeal if he/she loses.
- b) Defendant may appeal if he/she loses.

WHEN TO APPEAL

- a) Notice of Appeal must be filed with the clerk within 30 days from the date the judgment was mailed, including \$75.00 fee if you appeared in Court. Please make check out to Marin County Superior Court.
- b) If you did not appear in Court, you may file a Motion to Vacate Judgment with the clerk within 30 calendar days from the date the judgment was mailed. If Motion to Vacate is denied, you have 10 court days to file an appeal of the motion to vacate from the date the motion was denied.

WHAT HAPPENS ON APPEAL

- a) Case with exhibits is transferred to Superior Court.
- b) Case is heard all over again.
- c) Case will be heard within 30 calendar days.
- d) Attorneys may participate in Superior Court. [CCP 116.770(c)]