

NAVIGATING THE SMALL CLAIMS COURT PROCESS



BEFORE YOU FILE

- Document the subject of the dispute. Take still photos and have a small number of the best hard copies ready to show the judge. Keep copies of any bills and receipts related to the dispute.
- Send a "demand" letter preferably 1-2 pages in length to the other side. The letter should explain the basis for your claim and itemize your damages. It should provide a reasonable deadline with a statement that you will sue unless the matter is resolved prior to the deadline. If you proceed to a trial, the letter should be in a suitable form to show to the judge as an informal "brief" for your case.
- If you have trouble finding the other side, try the county assessor, 408-299-5500, or internet sites such as anywho.com or google.com. You can also look at the endorsement on the back of your old rent checks. You can research prior cases involving the same party in this county at sccaseinfo.org.
- If you have witnesses, have them write short statements of the facts they actually observed, which they should sign and date "under penalty of perjury" in case they can't come to court.
- Make sure your claim is within the statute of limitations. Generally, if you file before one year, your case will be timely, but the actual rules are more complex.
- Recognize the commitment in time and energy that will be required to go through the process. You will need to fill out the court forms and file them with the court. You will need to have the proper forms served on the opposing party. You will need to appear in person for the court hearing, more than once if there is a continuance. If you are successful, you may have to attend a second trial if the opposing party appeals, and you will need to take further steps to collect your judgment.

WHEN YOU ARE READY TO FILE

- If you have internet access, start by accessing the local small claims court website at www.sccsuperiorcourt.org/smallclaims. This site has detailed information on the small claims procedures, such as how to serve papers, or obtain an interpreter, with a number of additional links, including links to the forms you will need in Santa Clara and San Mateo counties, and the state self-help site. The site also lists the locations of the courts that hear small claims cases.
- There is limited telephone advice available at the Small Claims Advisory, 408-370-4440x6.
- Legal advice may be available at "Lawyers in the Library", www.probonoproject.org under "services," or the Lawyer Referral Service, www.sccba.com. Also, Nolo Press publishes "Everybody's Guide to Small Claims Court in California."

AT THE HEARING

- Have two extra copies of your demand letter, and any other evidence such as witness statements or still photos to give to the judge and to show to the opposing party, but keep the total documents to a small number that the judge can easily review. Don't expect extensive time to present witnesses.
- Prepare your own "testimony" so that you can accurately summarize your case in 5-10 minutes.
- Have a "bottom line" settlement in mind because you will probably be asked to try to settle before the judge hears the case. When you think about settling, remember all the remaining steps that will be necessary if the case goes to trial. Remember also that if you have a money judgment entered against you, it will probably appear on your credit report for 7-10 years even if paid.

AFTER THE HEARING

- Read the decision and instructions carefully and check the small claims website again because there are strict time limits that apply to post-trial requirements.
- Remember that settlement, either directly or through mediation, may still be a valid option in light of the post-trial process such as collection and appeal.

FOR MEDIATION ASSISTANCE CONTACT PROJECT SENTINEL (408) 720-9888

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