



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on September 24, 2019

Title

Small Claims: Information about Court Interpreters

Agenda Item Type

Action Required

Effective Date

January 1, 2020

Rules, Forms, Standards, or Statutes Affected

Revise forms SC-100 and SC-100-INFO

Date of Report

August 14, 2019

Recommended by

Civil and Small Claims Advisory Committee
Hon. Ann I. Jones, Chair

Contact

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Executive Summary

The Civil and Small Claims Advisory Committee recommends revisions to two small claims forms in light of the repeal of Code of Civil Procedure section 116.550 in Senate Bill 1155. Previously, that statute had authorized a small claims court to permit another individual other than an attorney to assist a party if the court determines that the party does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance. The law had also required each court to make a reasonable effort to maintain and make available to the parties a list of interpreters who were able and willing to aid parties in small claims actions. SB 1155 repealed section 116.550 and at the same time made all the statutory provisions regarding interpreters in other civil cases applicable to small claims cases. The proposed form revisions would remove from the forms all references to the content of this repealed law and more closely reflect current law.

Recommendation

To correct information in the forms regarding interpreters, the Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2020, revise:

1. The “How to Get Help With Your Case” section of *Information for the Small Claims Plaintiff* (form SC-100-INFO); and
2. The “Information for the defendant” section of *Plaintiff’s Claim and ORDER to Go to Small Claims Court* (form SC-100).

The revised forms are attached at pages 6–12.

Relevant Previous Council Action

The Judicial Council adopted form SC-100 and the predecessor to form SC-100-INFO in 1977 and has subsequently revised both forms numerous times to reflect statutory changes, add and revise pertinent information, and make them easier for small claims litigants to understand and use. The interpreter instructions on both these forms were revised, effective January 1, 2008, to reflect statutes that previously required courts to charge for court interpreters in civil matters and case law, stating that courts could provide a free court interpreter for an indigent small claims party who needed one, and should do so if an interpreter was available. (*Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412.)

The forms were revised again, effective January 1, 2017, to reflect the enactment of Evidence Code section 756. The revisions at that time removed references to fees for interpreters and fee waivers because courts can no longer charge for interpreter services. In addition, the order of information on the forms was changed to advise small claims litigants to ask about the availability of a court-provided interpreter, while also cautioning that an interpreter might be unavailable in light of the low preference given to small claims cases in Evidence Code section 756. The items also advised litigants that they could bring an adult who is not a witness or an attorney to interpret for them and could ask the court for a list of interpreters for hire, as provided in Code of Civil Procedure section 116.550.

Analysis/Rationale

Before enactment of SB 1155 (Hueso; Stats. 2018, ch. 852), Government Code section 68560.5 expressly excluded small claims cases from the requirement that certified, registered, or provisionally qualified interpreters must be provided for limited-English-proficient (LEP) litigants in court proceedings. Because courts were not required to use such interpreters in small claims courts—and in fact, for many years, could not provide any court interpreters in most cases—Code of Civil Procedure section 116.550 expressly addressed what courts should do for LEP litigants in small claims cases. Courts (1) could allow the litigants to have other individuals (friends or family members, or other individuals not formally qualified as court interpreters) assist them as informal interpreters; (2) were to maintain a list of interpreters who were willing to aid parties in small claims cases for little or no fee; and (3) could, if no interpreter was available, continue the small claims hearing to allow the litigant to obtain assistance on his or her own.

SB 1155 removed the exclusion for small claims cases from the provisions of Government Code section 68560.5, making the provisions of section 68561 applicable to small claims cases. At the

same time, it repealed Code of Civil Procedure section 116.550, removing from the courts the authority to regularly allow family or friends to interpret for parties at small claims hearings. Under Government Code section 68561, generally a certified or registered court interpreter must be used to interpret in a court proceeding.¹ If one is unavailable, a court may, following the good cause and qualification procedures adopted in rules of court by the Judicial Council, appoint an interpreter who is not a registered or qualified interpreter.²

Rule 2.893 of the California Rules of Court is the rule that has been developed by the council in this area. That rule allows appointment of provisionally qualified interpreters (those who apply to a court and are found to be qualified to interpret on an ongoing basis for up to six months) or, in certain circumstances, temporary interpreters.³ Although some parties might be able to bring more formally qualified interpreters with them to court (i.e., those who may be provisionally qualified by the court), many are unable to pay for such assistance. Temporary interpreters, such as the friends and family members previously permitted under Code of Civil Procedure section 116.550, may be used only to prevent burdensome delay or in other unusual circumstances, when limited to a single “brief, routine matter” that does not impact substantive rights.

The advisory committee comment for subdivisions (b)(7) and (d)(4) of rule 2.893 explains further: “When determining whether the matter before the court is a ‘brief, routine matter’ for which a noncertified or nonregistered interpreter who has not been provisionally qualified may be used, the judicial officer should consider the complexity of the matter at issue and likelihood of potential impacts on the LEP person’s substantive rights, keeping in mind the consequences that could flow from inaccurate or incomplete interpretation of the proceedings.”⁴ Because small claims trials, although often not complex, are hearings that clearly affect a party’s substantive rights, courts generally may not use temporary interpreters for such trials.

Currently, two Judicial Council forms for small claims parties include information directed to parties with limited English proficiency: *Information for the Plaintiff* (form SC-100-INFO) and *Plaintiff’s Claim and ORDER to Go to Small Claims Court* (form SC-100). under the “Information for the defendant” section. Each contains the same basic information: the party should ask the court for an interpreter as soon as possible; if none is available, the party may bring an adult to interpret or get a list of interpreters from the court.⁵

¹ Gov. Code, § 68561(c), (d).

² *Ibid.*; Gov. Code, § 68561(f).

³ Temporary interpreters are individuals who are not certified, registered, or provisionally qualified, but have been found able to interpret for the party on a one-time basis. They may be used to prevent burdensome delay or in other unusual circumstances, if the judge has made specified findings. (Cal. Rules of Court, rule 2.893(b)(7) and (d)(4).)

⁴ The separate advisory committee comment for (d)(4) notes that the rule providing for use of temporary interpreters is “not intended to be used to meet the extended or ongoing interpretation needs of LEP court users.”

⁵ Form SC-100, in the “Information for the defendant” section on page 4, currently states the following:

Continued on next page.

The revised text eliminates the reference to the list of interpreters for hire and the informal interpreters who, under the new law, the court may no longer regularly use to interpret for small claims trials. The text identifies a form on which to make the request and warns of a possible delay while an appropriately qualified interpreter is being located. It ends by noting that, should the party want to bring a private interpreter, the interpreter must meet the same requirements applicable in any other civil trial and cites the rule where those requirements are described and a form that may be used for having an interpreter provisionally qualified, if appropriate.⁶

Policy implications

These form revisions will bring the forms in line with the current law—which is now the same in all civil cases—on the use of interpreters in small claims proceedings. The committee notes that, because small claims cases, as “other civil cases,” are the lowest priority level on the list in Evidence Code section 756, complying with the new law may be difficult in those cases.

Comments

The proposal circulated for public comment in spring 2019. The three comments, all in favor of the revisions, are from the Superior Courts of Los Angeles and San Diego Counties and the Orange County Bar Association. A chart containing all the comments received is attached at pages 13–17.

In reviewing the forms following circulation, the committee decided to further simplify the language and to add a citation to the form for provisionally qualified interpreters.

Alternatives considered

Because the text of the current forms no longer reflects current law, the committee did not consider *not* revising the items.

The committee did consider the alternative of including an explanation that temporary interpreters might be used for nonsubstantive proceedings in small claims cases, such as requests for continuances. The committee concluded, however, that the distinction was too complex to explain in this form and was likely to lead to misunderstandings by LEP parties who might

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.

Form SC-100-INFO provides the following on page 2, in the section titled “How to Get Help With Your Case”:

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.

⁶ The Spanish-language version of the item on form SC-100 has been modified to reflect these revisions.

believe they would be able to bring a friend to interpret at the small claims trial, as permitted under prior law.

Fiscal and Operational Impacts

Although SB 1155 itself will have substantial fiscal and operational impacts on the courts, as well as raise access issues for parties, the form revisions will not add to those impacts.

Attachments and Links

1. Forms SC-100 and SC-100-INFO, at pages 6–12
2. Chart of comments, at pages 13–17
3. Link: Senate Bill 1155,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1155

Clerk stamps date here when form is filed.

DRAFT**08-30-2019****Not approved by
the Judicial Council****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 for a court-provided interpreter. You may use form INT-300 or local court form to request an interpreter. If a court interpreter is not available at the time of your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form INT-140.)

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.

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)

- **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 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.



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/preparesse.

¿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? Solicite un intérprete al secretario de la corte lo más pronto posible. Puede usar el formulario INT-300 o un formulario de su corte local. Si no está disponible un intérprete de la corte para su juicio, es posible que se tenga que cambiar la fecha de su juicio. No puede llevar su propio intérprete para el juicio a menos que el intérprete haya sido aprobado por la corte como un intérprete certificado, registrado, o provisionalmente calificado. (Vea la regla 2.893 de las Reglas de la Corte de California, y el formulario INT-140.)

¿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).)

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 for a court-provided interpreter. You may use form INT-300 or a local court form to request an interpreter. If a court interpreter is not available at the time of your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form INT-140.)
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*):

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Small Claims: Information about Court Interpreters (Revise forms SC-100 and SC-100-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association By Deirdre Kelly President Newport Beach	A	The proposal appropriately addresses the stated purpose.	The committee acknowledges the commenter’s agreement.
2.	Superior Court of Los Angeles County	A	<p>Request for Specific Comments Does the proposal appropriately address the stated purpose? Yes, the proposal addresses the stated purpose.</p> <p>The advisory committee also seeks comments from courts on the following cost and implementation matters: What would the implementation requirements for the revised forms be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Training would not be required for clerical operations as the bill does not impact the clerical process.</p> <p>Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementing the revised forms? Yes, two months would be sufficient.</p>	The committee acknowledges the commenter’s agreement with the proposal and appreciates the information on the cost and implementation matters.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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	Commenter	Position	Comment	Committee Response
3.	Superior Court of Orange County Civil, Small Claims and Language Access Services divisions by Sean E. Lillywhite Administrative Analyst/Officer Training & Analyst Group	NI	<p>Based on our interpretation of the code, it is not clearly apparent that small claims trials fall outside of the ‘brief routine matter’ language (See Cal. Rules of Court, rule 2.893(d)(4)) that allows usage of temporary interpreters and should ultimately be decided by judicial discretion. While you did footnote the advisory committee comments on what judges should consider when determining what constitutes a brief routine matter, it is still leaving the decision in the judge’s hands. It is also our own opinion that having no interpreter at all is clearly more determinantal to the litigant’s substantive rights than having a temporary interpreter.</p> <p>The language also runs somewhat contrary to our current understanding of the Judicial Council’s guidance for language expansion. Reporting, for example, asks us to exclude any counts of temporary interpreters in small claims, as they do not consider it as the court being unable to provide services or a denial of services. (To be clear, they do ask for these counts in other</p>	<p>The advisory committee understands current law, in light of SB 1155’s eliminating authorization for courts to use informal interpreters in small claims court, as not allowing the regular use of temporary interpreters for small claims trials. The provisions of Rule 2.893(d) do not change the impact of SB 1155, because small claims trials are not “brief, routine matters” under that rule, but rather evidentiary hearings that will have impacts on the parties’ substantive rights, for which the court must “keep[] in mind the consequences that could flow from inaccurate or incomplete interpretation of the proceedings.” (Rule 2.893, Advisory Committee Comment.) The Advisory Committee Comment also notes that the rule providing for use of temporary interpreters is “not intended to be used to meet the extended or ongoing interpretation needs of LEP court users.”</p> <p>This comment appears to represent a misunderstanding of discussions with staff about rule 2.895, which requires courts to track requests for <i>court</i> interpreters and whether such requests are granted or denied. Staff is not aware of any distinctions for tracking such requests in small claims cases.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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Commenter	Position	Comment	Committee Response
		<p>case types.) We were also asked to use a case type priority list, pursuant to EC 756, that lists small claims as the lowest priority. While we have greatly expanded our interpreter services to small claims, we do not have the resources to do so completely, particularly for rare languages.</p> <p>We respectfully ask that the language be changed to note that a temporary interpreter may be used in small claims, with the proper qualification approved by the court.</p> <p>Court staff comments: In the proposal, the committee opted to omit information on the use of temporary interpreters. Respectfully, we consider this omission a mistake that could lead to confusion among court staff and delay to the public. Although temporary appointments are discouraged in favor of certified / registered interpreters, the fact is that temporary appointments are necessary. If parties feel from the outset that they cannot bring someone with them to help, it could result in unnecessary continuances. To avoid any misunderstanding, an explanation about temporary interpreters should be included. Otherwise, the court potentially may be</p>	<p>The committee agrees that small claims cases are, with “other civil cases”, at the lowest priority level in the list in Evidence Code section 756, which can make complying with the new law difficult in those cases. It is hoped that increased use of video remote interpreting and telephonic interpreting will provide greater access to certified and registered interpreters.</p> <p>For the reasons stated above, the committee declined to accept the suggestion that the forms should inform small claims parties that temporary interpreters could be used.</p> <p>See response above. Also, the only information about temporary interpreters the committee considered including was that they would be permitted for “brief, routine” procedural matters, such as requests for continuing a trial date. The committee agrees that the new law raises access issues, but Judicial Council forms must conform with the law.</p>

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Small Claims: Information about Court Interpreters (Revise forms SC-100 and SC-100-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			Propose that second sentence be modified as follows: “You may use form INT-300 or <u>local court form</u> to request an interpreter.” SC-100-INFO– How to Get Help With Your Case (Page 2) Propose that second sentence be modified as follows: “You may use form INT-300 or <u>local court form</u> to request an interpreter.”	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated