

Defendant's Claim

Step 1	<p>Complete the following forms in blue or black ink:</p> <p><input checked="" type="checkbox"/> SC-120 Defendant's Claim and Order to Go to Small Claims Court</p> <p><input type="checkbox"/> SC-120A Other Plaintiffs or Defendants (<i>if necessary</i>)</p> <p><input type="checkbox"/> SC-103 Fictitious Business Name (<i>if applicable</i>)</p>
Step 2	<p>Copies: Make enough copies for each plaintiff and one for you, in addition to the original.</p>
<p>Step 3</p> <p><i>The filing fee is \$30 to \$100.</i></p>	<p>File: Turn in the original and copies of the forms to:</p> <p style="text-align: center;">191 North First Street, San Jose, CA 95113</p> <p style="text-align: center;">The Clerk's Office opens at 8:30am Monday-Friday, closing times are subject to change, visit www.sccscourt.org or call 408-882-2100 for current office hours.</p> <p><input type="checkbox"/> If you are not asking for a fee waiver, you will pay the filing fee and get copies back with a file-stamp and a case number.</p> <p><input type="checkbox"/> If you are asking for a fee waiver, your file-stamped copies may be returned immediately, OR you may be asked to return in up to 24 hours, OR your file stamped forms may be mailed to you. Please check with the clerk who takes your forms.</p>
Step 4	<p>Service: After the filed copies are returned to you:</p> <p>Keep 1 filed copy for your records</p> <p>Serve: You have three options for serving the plaintiff a filed copy of your forms:</p> <ol style="list-style-type: none"> 1. Personal Service: An adult, NOT YOU or anyone named in the case, must hand a filed copy of your forms to the plaintiff. 2. Substitute Service: Substitute service can be done by an adult, NOT YOU or anyone named in the case, at one of two locations: <ul style="list-style-type: none"> ▪ Home: The server hands the forms to an adult who lives at the plaintiff's address <u>and</u> then mails a copy of the forms to the plaintiff at that same address. ▪ Work: The server hands the forms to an adult who appears to be in charge at the plaintiff's business address <u>and</u> then mails a copy of the forms to the plaintiff at that same address. 3. Certified Mail Service: For a fee, the court clerk will serve your claim by certified mail. <u><i>This type of service can only be done through the court.</i></u> This only works if the plaintiff signs the receipt. Many plaintiffs will not sign the receipt so this type of service often does not work. <p>Time for Service:</p> <ul style="list-style-type: none"> • If you were served a copy of the Plaintiff's Claim more than 10 days before the hearing date, you must serve a file-stamped copy of SC-120 on the plaintiff at least 5 days before the hearing date. • If you were served a copy of the Plaintiff's Claim 10 days or less before the court date, you must serve a file-stamped copy of SC-120 on the plaintiff at least 1 days before the hearing date. • <u>Certified Mail:</u> Add 5 days to the service deadlines • <u>Substituted Service:</u> Add 10 days from the date of mailing to the service deadlines
Step 5	<p>After service: If your forms are served by personal or substitute service, your server will fill out form SC-104 <i>Proof of Service</i>. You must file the original <i>Proof of Service</i> form with the court clerk at least 5 calendar days before the court hearing.</p>
Step 6	<p>Go to your court date.</p>

WHO DO I SUE AND SERVE?

In a Defendant's Claim, you may only sue the plaintiffs listed on the Plaintiff's Claim. If you wish to sue additional people, you must file a Plaintiff's Claim instead. In this case, you should let the Clerk's Office know there is a related case already on calendar. The court may want to schedule both cases together.

WHERE SHOULD I SUE?

You will need to sue in the same location as the Plaintiff's Claim. In Santa Clara County, small claims cases are filed at:

[San Jose Courthouse](#)

191 N. First St.

San Jose, CA 95113

(408-882-2100)(Option 2 then Option 7 from menu)

WHAT SHOULD I BRING TO MY COURT DATE?

You should bring one copy of the documents which help to prove your case. Additionally:

- If your case involves:
 - a motor vehicle accident, bring proof of ownership of the vehicle (DMV registration or title).
 - a landlord-tenant issue, (ex. security deposit or back rent owed), bring a copy of the written lease agreement.
 - a business dispute, bring a copy of your contract.
- If you have any witnesses, they should attend the court hearing. It is unlikely the Judge will accept a written statement as evidence.

WHAT SHOULD I EXPECT ON MY COURT DATE?

After the deputy does roll-call and the Judge explains the process, you will be sent outside to talk to the other party and try to settle. You will also have to exchange any evidence you wish to present to the Judge. If you are unable to settle, you will have an informal hearing in front of the Judge. The Judge may give you the decision in court or decide after the hearing and mail the decision to both parties. If you still have questions, talk to an attorney for legal advice. You must know the Court's local rules. They are available on the court's website at www.scscourt.org.

www.scscourt.org
Santa Clara County
Self-Help website

www.courts.ca.gov
State of California
Self-Help website