

# Start a Small Claims Case

<b>Step 1</b>	<p><b>Complete the following forms</b> in blue or black ink:</p> <p><input checked="" type="checkbox"/> SC-100 Plaintiff's Claim and Order to Go to Small Claims Court</p> <p><input type="checkbox"/> SC-100A Other Plaintiffs or Defendants <i>(if necessary)</i></p> <p><input type="checkbox"/> SC-103 Fictitious Business Name <i>(if doing business under a name that is not your own)</i></p>
<b>Step 2</b>	<p><b>Copies:</b> Make <b>2</b> copies, in addition to the original.</p>
<p><i>The filing fee is \$30 to \$100.</i></p>	<p><b>File:</b> Turn in the original and copies of the forms to:</p> <p style="text-align: center;"><b>191 North First Street, San Jose, CA 95113</b></p> <p>The Clerk's Office opens at 8:30am Monday-Friday, closing times are subject to change, visit <a href="http://www.scscourt.org">www.scscourt.org</a> or call <b>408-882-2100</b> for current office hours.</p> <p><input type="checkbox"/> <b>If you are not asking for a fee waiver</b>, you will pay the filing fee and get copies back with a file-stamp and a case number.</p> <p><input type="checkbox"/> <b>If you are asking for a fee waiver</b>, 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>
<b>Step 4</b>	<p><b>Service:</b> After the filed copies are returned to you:</p> <p><b>Keep</b> 1 filed copy for your records</p> <p><b>Serve:</b> You have three options for serving the defendant a filed copy of your forms:</p> <ol style="list-style-type: none"> <li>1. <b>Personal Service:</b> An adult, <b>NOT YOU</b> or anyone named in the case, must <b>hand</b> a filed copy of your forms to the defendant. The defendant <b>does not</b> need to sign anything saying they got your paperwork.</li> <li>2. <b>Substitute Service:</b> Substitute service can be done by an adult, <b>NOT YOU</b> or anyone named in the case, at one of two locations:             <ul style="list-style-type: none"> <li>▪ <b>Home:</b> The server can <b>hand</b> the forms to an adult who lives at the defendant's address and then <b>mail</b> a copy to the defendant at that same address.</li> <li>▪ <b>Work:</b> The server can <b>hand</b> the forms to an adult who appears to be in charge at the defendant's business address <u>and</u> then <b>mail</b> a copy to the defendant at that same address.</li> </ul> </li> <li>3. <b>Certified Mail Service:</b> For a fee, the court clerk will serve your claim by certified mail. <i><u>This type of service can only be done through the court.</u></i> The certified mail service only works if the defendant signs the receipt and sends it back. Many defendants will not sign the receipt so this type of service often does not work.</li> </ol> <p><b>Time for Service:</b> If the defendant lives in this county, they must be served at least <b>15 calendar days</b> before the court date. If the defendant lives outside of the county, they must be served at least <b>20 calendar days</b> before the court date. You must add <b>10 calendar days</b> to the above deadlines if the defendant was served by substitute service.</p>
<b>Step 5</b>	<p><b>After service:</b> 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 <b>5 calendar days before the court hearing</b>.</p>
<b>Step 6</b>	<p><b>Go to your court date.</b></p>

## WHO DO I SUE AND SERVE?

1. If you are suing a person, you will use their full legal name.
2. If you are suing a corporation, you must name the agent for service of process or one of the officers of the corporation (eg. Doe Corporation, serve: John Doe, agent for service). The agent for service of process can be looked up at <https://bizfileonline.sos.ca.gov/search/business>.
3. If you are suing the sole owner of a business, list the owner's name "dba" (doing business as) and the name of the business (eg. John Doe dba Doe Cleaners). The owner of a business located in Santa Clara County can be looked up online at <https://scccroservice.org/web/> or by going to the Recorder's Office at 110 W. Tasman Dr. 1<sup>st</sup> Floor, San Jose, CA 95134.
4. If you are suing a partnership, you must name all the partners (write it the same as in item 3 but list all of the partners).
5. If you are suing over a car accident, you should sue both the driver and the registered owner of the car.

## WHERE SHOULD I SUE?

You will need to file your case at the courthouse that covers the area:

- (1) Where the Defendant (the person being sued) lives or does business,
- (2) Where the Plaintiff's property was damaged,
- (3) Where the Plaintiff was injured, or
- (4) Where a contract was made, signed, performed, or broken **by** the Defendant or where the Defendant lived or did business when the Defendant made the contract.

In Santa Clara County, you can file small claims cases 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 while you are in court or the Judge may 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](http://www.scscourt.org).

[www.scscourt.org](http://www.scscourt.org)  
Santa Clara County  
Self-Help website

[www.courts.ca.gov](http://www.courts.ca.gov)  
State of California  
Self-Help website