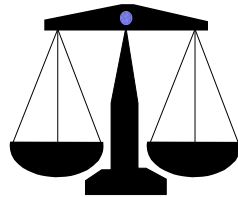


# SMALL CLAIMS COURT

## UCLA STUDENT LEGAL SERVICES



If you want to sue someone and the amount involved in the lawsuit is \$10,000 or less, you may sue in Small Claims Court. Small Claims Court is a special court that is well suited to non-lawyers because the procedural rules are much simpler than those in other courts. The trial is fairly informal and the rules of evidence are relaxed. Consequently, most non-lawyers find Small Claims Court to be less intimidating than "regular" court. Another advantage to Small Claims Court is that you tend to get to trial more quickly than in other courts.

Before filing a lawsuit in Small Claims Court, you must make several determinations. First, you must determine if your case qualifies. You may not sue for more than \$10,000 in Small Claims Court if you are an individual. Businesses and public entities may not sue for more than \$5,000. So you should not file in Small Claims Court if you want to recover more than \$10,000, and you should file in Superior Court instead. If your claim is worth more than \$10,000 but you are willing to forego recovering more than that amount, you may sue in Small Claims Court and waive the amount in excess of \$10,000.

Second, you must be certain that you know the proper person to sue (the "defendant") and have the defendant's correct name and address. There are special requirements for suing a business, and the court clerk has written information that will help you as does this article: <http://www.lacba.org/docs/default-source/small-claims-workshop/filing-a-small-claims-action.pdf>.

Third, you must determine which branch of Small Claims Court should hear your case. Generally, you should file in the branch court for the geographic area either where the defendant lives or where the incident about which you are suing occurred. You should call the court or check online at <http://www.lacourt.org/filinglocatornet/ui/filingsearch.aspx> to find out which court is the appropriate one.

Finally, in most cases, you should make a demand for the money, either oral or written, on the defendant before filing the suit.

Once you are ready to file the lawsuit, you should go to the appropriate courthouse and locate the small claims filing window where you can get the forms and information necessary to file. You also may obtain

the forms online at <http://www.courts.ca.gov/forms.htm?filter=SC&Submit.x=38&Submit.y=15>. The clerk may be able to assist you if you have questions. You also can file online with Efile for an additional fee of \$10: <http://ww2.lacourt.org/efiling/eFilingNotice.aspx>.

In the main courthouse downtown, there are volunteer advisors available to answer your questions during certain hours. For information, call (213) 974-9759. If you are a currently registered UCLA student, you should call Student Legal Services to schedule an appointment. There also is a helpful web site at <http://www.lacourt.org/division/smallclaims/smallclaims.aspx>. In addition, the Los Angeles County Bar Association conducts small claims court workshops and has informational packets on a variety of related topics at <https://www.lacba.org/need-legal-help/small-claims>.

The amount of the filing fee depends upon the amount for which you are suing: the fee is \$30 if you are suing for no more than \$1,500; it is \$50 if the amount for which you are suing is between \$1,500 and \$5,000; it is \$75 if you are suing for more than \$5,000; and it is \$100 if you have filed more than twelve small claims cases during the last twelve months. You will be given a trial date when you file. You also will be given a form named "Plaintiff's Claim and Order to Go to Small Claims Court" that will need to be served upon the defendant. Check the form carefully before you leave the filing window to be sure the clerk has typed in information about your claim correctly. The defendant can be served personally either by the sheriff (for a \$40 fee) or by someone who is over 18 years old and is not a party to the lawsuit (i.e., a friend of yours but not you). If your friend serves the defendant, be certain your friend completes the Proof of Service form the clerk will give you and then file the completed form with the clerk at least five days before the trial; you also can get the Proof of Service form online at <http://www.courts.ca.gov/documents/sc104.pdf>. The court clerk also can serve the defendant by certified mail with a return receipt required.

At trial, you should be prepared to explain your case to the judge clearly and concisely. It is advisable to have a written outline of your remarks. You also should bring with you to court all of the documents supporting your case (the original and 2 copies if possible), as well as the witnesses for your side. You may subpoena witnesses who do not want to appear voluntarily.

The judge may make a decision while you are in court or s/he may "take it under advisement" and inform you of the decision by mail. If the defendant loses, s/he may appeal the decision. The plaintiff, however, may not appeal if s/he loses. The judgment form will advise you of some of the special rules regarding appeal.

If you have a judgment in your favor, you may use court procedures to collect the judgment. For more information, please refer to the article, "How to Collect a Court Judgment," on the Student Legal Services web site.

### **Questions asked by UCLA students:**

**Question:** *My former landlord refuses to return my \$1,000 security deposit and hasn't even answered the letters I sent him asking for the money. Can I sue him in small claims court?*

**Answer:** Yes, small claims court is an ideal place for you to sue your former landlord, as it is much more "user friendly" for non-lawyers than regular superior court. Neither side may be represented by a lawyer, and you may sue for up to \$10,000, which is more than sufficient to cover your security deposit. Because the landlord never responded to any of your letters, you may ask the judge to award you a penalty of up to two times the amount of the deposit for the landlord's bad faith retention of your deposit (in your Plaintiff's Claim form, you may sue for \$3,000).

First, you must determine which court is the proper one for your lawsuit. You need to sue in the court near where your former apartment is located or where your landlord resides. If you lived near UCLA in West Los Angeles, then you should sue in the Santa Monica Small Claims Court at 1725 Main Street, Santa Monica 90401. Because of budget cuts, many courts that historically heard small claims cases no longer do (e.g., West Los Angeles).

Next, you need to be certain that you have the correct name and address of the owner of the building. You should name the owner as the defendant in your lawsuit. If you do not know the name and address of the landlord, Student Legal Services may be able to get this information for you if you are eligible for our services.

To start your lawsuit, you need to complete and file with the court the Plaintiff's Claim form, which you can get at the courthouse or online at <http://www.courts.ca.gov/documents/sc100.pdf>. It will cost \$30 to file your lawsuit if you do not sue for the bad faith penalty and \$50 if you include the penalty. You will get a trial date when you file. Then you will need to have the defendant (your landlord) personally served with the Plaintiff's Claim form the clerk will give back to you with the assigned trial date. The defendant must be served at least 15 days before the trial. You may have the sheriff serve the defendant for \$40 or you may have a friend who is not part of the lawsuit serve the defendant. Although the clerk can serve the defendant by certified mail (for a \$15 fee), this method is not recommended for individual defendants because individuals generally do not sign the required receipt; this method does tend to work well for corporations. If your friend serves the defendant, your friend must complete a Proof of Service form, which you can get at the courthouse when you file or online at <http://www.courts.ca.gov/documents/sc104.pdf>; the Proof of Service form must be filed with the court at least 5 days before trial. You will be awarded the cost of filing and service in the judgment if you win.

At trial, you should have proof of what you paid as a security deposit, e.g., your lease, a receipt, or a cancelled check. You also should show the judge copies of the letters you sent to the landlord requesting your deposit.

**Question:** *My ex-roommate is suing me in small claims court for \$150 that she says I owe her for rent. The reason I didn't pay is that she owes me \$120 for the phone bill. The trial is in three weeks. What should I do?*

**Answer:** You may file a Defendant's Claim against the plaintiff, your ex-roommate, for the money that you claim she owes you. You may obtain the Defendant's Claim form at the same courthouse where you will be going to trial or online at <http://www.courts.ca.gov/documents/sc120.pdf>, and you must file it and serve it on the plaintiff at least 5 days before your trial date.

At trial, the judge will hear both your ex-roommate's claim against you (the plaintiff's claim) and your claim against her (the defendant's claim). You should bring to court the phone bills and any witnesses or other evidence in support of your claim. The judge could rule in favor of both of you, in which case your claim would be offset against hers, and you would owe her only \$30. The judge also could rule in favor of only one of you or against both of you.

If the judge rules in favor of your ex-roommate on her Plaintiff's Claim, you may appeal that judgment. If the judge rules in favor of you on your Defendant's Claim, your ex-roommate may appeal. If the judge rules against both the Plaintiff's and Defendant's Claims, then there may be no appeals, because only the person being sued may appeal if the judge rules she owes money. The appeal must be filed within 30 days of the entry of judgment and costs \$75, and a new trial is scheduled in the appellate division of

superior court. The parties then have the opportunity to argue their case before a different judge who renders a decision based only on the new trial. You may hire a lawyer to represent you on appeal.

**Question:** *I rear-ended a car last fall and didn't have insurance or the money to pay for the damage to the other car. I offered to make monthly payments, but the driver of the car said he wants all the money immediately. He is suing me in small claims court, and the trial date is during an important final exam. Can I postpone the trial date? Also, since I don't have the money to pay for the damage, what will the court do?*

**Answer:** You may postpone the trial date by going to the court to request a postponement at least 10 business days before the trial. You will need to fill out a Request to Postpone Trial, <http://www.courts.ca.gov/documents/sc150.pdf>, and pay a \$10 fee. The court clerk will set a new trial date and will send a notification to the other party.

During the trial, you may ask the judge to be allowed to pay the judgment in monthly payments if s/he rules against you. After a judgment against you is entered, however, you will need to file a Request to Make Payments, <http://www.courts.ca.gov/documents/sc220.pdf>, along with financial information on a financial declaration form that you may obtain from the court clerk or online, <http://www.courts.ca.gov/documents/ej165.pdf>. If the other driver (the judgment creditor) does not accept your proposed payment terms, then you will need to schedule a hearing to present your request to the judge who will make the final decision.

**For more information, please visit the Student Legal Services web site:**  
<http://www.studentlegal.ucla.edu>

**The information contained in this article is of a general nature. If you have a similar problem, you should consult with an attorney. Currently registered UCLA students are encouraged to call Student Legal Services for an appointment (310.825.9894). Appointment hours are 9:00 a.m. to 5:00 p.m., Monday through Friday. Student Legal Services is located in A239 Murphy Hall.**