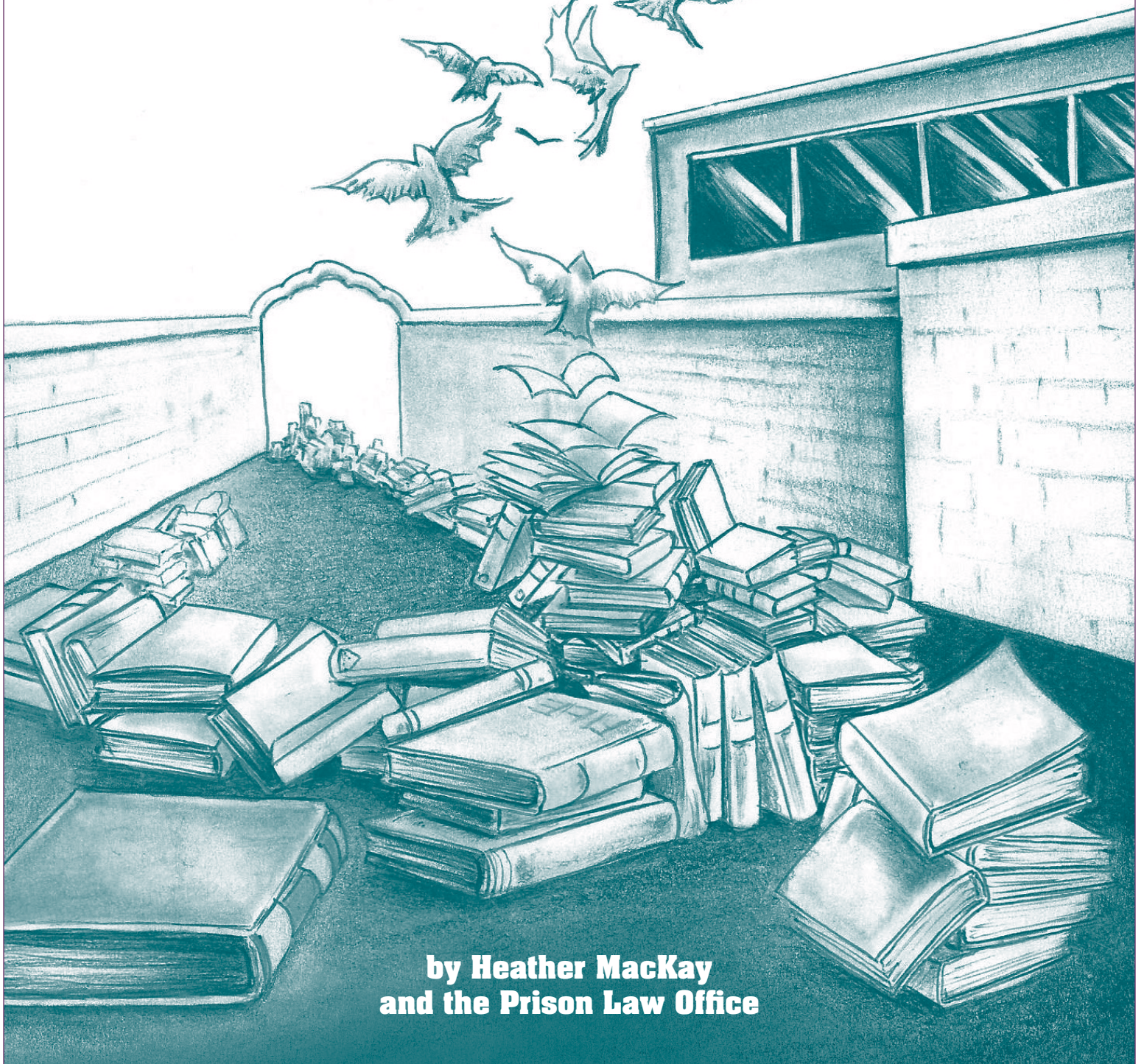


# **The California Prison and Parole Law Handbook**



**by Heather MacKay  
and the Prison Law Office**

# THE CALIFORNIA PRISON & PAROLE LAW HANDBOOK

BY HEATHER MACKAY  
&  
THE PRISON LAW OFFICE

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The Prison Law Office is a non-profit public interest law firm that strives to protect the rights and improve the living conditions of people in state prisons, juvenile facilities, jails and immigration detention in California and elsewhere. The Prison Law Office represents individuals, engages in class actions and other impact litigation, educates the public about prison conditions, and provides technical assistance to attorneys throughout the country.

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## **YOUR RESPONSIBILITY WHEN USING THIS HANDBOOK**

When we wrote *The California Prison and Parole Law Handbook*, we did our best to provide useful and accurate information because we know that people in prison and on parole often have difficulty obtaining legal information and we cannot provide specific advice to everyone who requests it. However, the laws are complex change frequently, and can be subject to differing interpretations. Although we hope to publish periodic supplements updating the materials in the Handbook, we do not always have the resources to make changes to this material every time the law changes. If you use the Handbook, it is your responsibility to make sure that the law has not changed and is applicable to your situation. Most of the materials you need should be available in a prison law library or in a public county law library.

# CHAPTER 18

## STATE TORT LAWSUITS

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### 18.1 Introduction

This chapter discusses lawsuits brought under the California Government Claims Act (Government Code § 810 et seq.) and California's Bane Civil Rights Act (Code of Civil Procedure § 52.1) by people in state prisons. People in prison can use these lawsuits to seek money damages for injuries or losses caused by violations of California state law by public officials or employees. People in prison can also use these types of lawsuits to seek injunctive relief (an order that prison officials do or stop doing something), though usually other types of legal actions are better for that purpose (see Chapter 15 (state habeas corpus petitions, Chapter 17 (federal civil rights cases) and § 19.30 (comparison of different types of legal actions)).

There are special rules that apply to state civil suits seeking filed by people in prison, including a requirement to exhaust administrative remedies with both prison officials and the Department of General Services, Office of Risk and Insurance Management (§§ 18.4-18.6) and immunities that make the state and its employees or officials immune (meaning they can't be held liable) for many types of state civil claims (§ 18.9).

The right to sue under state law is independent of the right to bring a federal civil rights ("§ 1983") action described Chapter 17. In some cases, the facts may support both a federal civil rights claim and a state government or civil rights claim, and both claims can be joined together in one lawsuit filed in either federal or state court (see § 17.11 and § 17.14). In other cases, there may be only a state law claim and the case must be filed in state court. Also, it is sometimes easier for a person to win a state law claim than a federal law claim because state law has less extensive immunity provisions

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and may be violated by less serious misconduct.<sup>1</sup> Thus, a person who suffers an injury as a result of a state employee's wrongful act should always try to preserve the right to sue under state law.

As with federal civil rights lawsuits, people should be aware that it is difficult to litigate a state civil lawsuit without a lawyer and should attempt to get representation by a lawyer if at all possible (see § 17.2).

This Chapter does not discuss state civil lawsuits against local public entities like county sheriff's departments or city police departments or against employees of local public entities. Legal Services for Prisoners with Children publishes a manual called *Suing a Local Public Entity*, available on the Resources page at [www.prisonerswithchildren.org](http://www.prisonerswithchildren.org) or by writing to Legal Services for Prisoners with Children, 1540 Market St., Suite 490, San Francisco, CA 94102.

### 18.2 Who May Bring a State Civil Lawsuit

Any person who is deprived of a state constitutional or statutory right or who has been injured by someone else's bad act may file a state civil lawsuit. A person who files a lawsuit is called the plaintiff.

Although people in prison may file state civil lawsuits, there are special rules limiting the liability of government entities and government officials or employees. These immunities are discussed in § 18.9.

### 18.3 Exhaustion of Administrative Remedies Requirement: Administrative Appeal

Before filing a state civil lawsuit (or a federal civil rights lawsuit that includes a state law claim) against the CDCR or a CDCR official, a person in prison or on parole must file a CDCR administrative appeal seeking money damages and pursue the administrative appeal to the highest level of review. Completion of the administrative appeal process is necessary even though the CDCR does not normally grant money damages through the administrative appeal process.<sup>2</sup> Also, administrative appeals must be exhausted even if the defendant is an independent contractor who provides services to the CDCR, rather than a CDCR employee.<sup>3</sup>

The processes and timelines for CDCR administrative appeals are discussed in Chapter 1.

### 18.4 Exhaustion of Administrative Remedies Requirement: Government Claim

In addition to filing a CDCR administrative appeal, a plaintiff who wants to sue the state or a state official or state employee for money damages for a violation of California law must first file a claim with the Department of General Services, Office of Risk and Insurance Management.<sup>4</sup> A person

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<sup>1</sup> See, e.g., *Lucas v. County of Los Angeles* (1996) 47 Cal.App.4th 277 [54 Cal.Rptr.2d 655].

<sup>2</sup> *Wright v. California* (2004) 122 Cal.App.4th 659, 664-671 [19 Cal.Rptr.3d 92].

<sup>3</sup> *Parthemore v. Col* (2013) 221 Cal.App.4th 1372, 1381-1383 [165 Cal.Rptr.3d 367].

<sup>4</sup> Government Code § 945.4; Government Code § 950.2.

should not have to complete the whole CDCR administrative appeal process before filing a Government Claims Form.

## 18.5 Timeline and Procedure for Filing a Government Claim Form

The deadline to file a Government Claim form seeking compensation for death, personal injury, or loss or damage to property is six months after the “accrual” of the cause of action.<sup>5</sup> Generally, a cause of action accrues on the date of the wrongful or negligent act that causes the injury or loss or on the date that plaintiff first discovers the injury or loss. The six-month time limit is not extended just because a person is imprisoned or on parole.<sup>6</sup> However, a plaintiff who misses the deadline can request permission to file late claim (see § 18.6).

To file a Government Claim, a plaintiff must fill out and file a Government Claim Form. A sample copy of this form with filing instructions is included as Appendix 18-A. The form should be available in the prison law libraries and is on the Department of General Services website at [www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx](http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx). A person could also try requesting a form by writing to the Government Claims Program, Office of Risk and Insurance Management, Department of General Services, P.O. Box 989052, MS 414, West Sacramento, CA 95798.

The form must set forth all the facts supporting the claim, such as the type and extent of the injury, who caused it, and when and how it occurred.<sup>7</sup> Attach copies (not originals) of any documents that support the claim. The plaintiff should then sign the form and mail it to the address listed on the form, along with either a \$25 filing fee or a request for a fee waiver.<sup>8</sup> The plaintiff should enclose a copy of the form and a pre-addressed, postage-paid envelope; the clerk who files the form will stamp the extra copy and send it back to the plaintiff as evidence that the claim was filed. It is also a good idea for the plaintiff to keep a copy of the claim in case the package is lost or delayed.

To ask for a fee waiver, a plaintiff must fill out the Affidavit for Waiver of Government Claims Filing Fee and Financial Information Form and attach a certified copy of their trust account balance sheet.<sup>9</sup> A sample copy of the fee waiver request form is included in Appendix 18-A. The fee waiver request form should be available in the prison law libraries, on the Department of General Services website at [www.dgs.ca.gov](http://www.dgs.ca.gov) or by writing to the Department of General Services.

If the plaintiff does not properly fill out the claim form, files the claim after the deadline, or does not submit the proper fee or fee waiver request, the Department of General Services must give

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<sup>5</sup> Government Code § 901; Government Code § 911.2. Under these laws, any other type of claim should be presented not later than one year after the cause of action accrues.

<sup>6</sup> Government Code § 945.6(c); see also *Torres v. California Dept. of Corrections and Rehabilitation* (2013) 217 Cal.App.4th 844 [158 Cal.Rptr.3d 876] (no tolling during parole).

<sup>7</sup> A lawsuit that alleges a factual or legal basis for recovery that was not included on the Government Claim Form may end up being dismissed. *Watson v. California* (1993) 21 Cal.App.4th 836, 844 [26 Cal.Rptr.2d 262]; *Nelson v. California* (1983) 139 Cal.App.3d 72 [188 Cal.Rptr.479]; *Casteneda v. California Dept. of Correction and Rehabilitation* (2013) 212 Cal.App.4th 1051 [151 Cal.Rptr.3d 648] (where person in prison filed tort claim and later died, person’s daughter must file her own claim to proceed with a wrongful death action).

<sup>8</sup> Government Code § 905.2(b).

<sup>9</sup> Government Code § 905.2(c).

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the plaintiff notice of the defects,<sup>10</sup> and may allow the defects to be corrected.<sup>11</sup> If the Department of General Services does not give notice of the defect, it waives the right to argue in court that that the plaintiff did not exhaust the Government Claims process.<sup>12</sup>

The Department of General Services should act on the claim within 45 days after it is filed.<sup>13</sup> In most cases, the Department of General Services will send a formal notice stating that the claim was denied.

Sometimes the Department of General Services does not act on the claim, or does not send any notice of its decision denying the claim. In such situations, the claim is deemed denied as of 45 days after it was filed.<sup>14</sup>

The Department of General Services routinely denies claims for damages arising from personal injuries, so a person should not get discouraged if a claim is rejected.

### 18.6 Requesting Permission to File a Late Government Claim Form

A plaintiff who does not meet the six-month deadline for filing a Government Claim form can ask for permission to file a late claim. The request to must be presented as soon as possible, and no later than one year after the cause of action accrued. A plaintiff who wants to request permission to file a late claim should fill out the ordinary claim form (and if appropriate, a request for a fee waiver), and attach a letter explaining why the claim was not filed on time.<sup>15</sup>

The Department of General Services must allow a late claim to be filed in certain circumstances. The circumstances that frequently apply to people in prison include the following:

- ◆ The failure to present the claim on time was due to mistake, inadvertence, surprise or excusable neglect and the state was not prejudiced by the failure to file a timely claim.<sup>16</sup> However, mere ignorance of the six-month deadline is not necessarily good cause for missing the deadline.<sup>17</sup>
- ◆ The person who suffered the injury, damage, or loss was a minor during all of the six-month deadline period.<sup>18</sup>

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<sup>10</sup> Government Code § 910.8; Government Code § 911.3(a).

<sup>11</sup> Government Code § 910.4; Government Code § 910.6; Government Code § 911.4.

<sup>12</sup> Government Code § 911; Government Code § 911.3(b); *Sykora v. Department of State Hospitals* (2014) 225 Cal.App.4th 1530, 1535-1538 [171 Cal.Rptr.3d 583].

<sup>13</sup> Government Code § 912.4.

<sup>14</sup> Government Code § 912.4(c).

<sup>15</sup> Government Code § 911.4. The one-year limit does not include time during which the plaintiff is mentally incapacitated and does not have a guardian or conservator. Government Code § 911.4(c).

<sup>16</sup> Government Code § 911.6(b)(1); see *Torbitt v. Fearn* (1984) 161 Cal.App.3d 860 [208 Cal.Rptr. 1].

<sup>17</sup> See *Harrison v. County of Del Norte* (1985) 168 Cal.App.3d 1 [213 Cal.Rptr. 658].

<sup>18</sup> Government Code § 911.6(b)(2).

- ◆ The person who suffered the injury, damage or loss was unable to present a timely claim due to physical or mental incapacitation during all of the six-month deadline period.<sup>19</sup>
- ◆ The person who suffered the injury or loss died before the six-month deadline period was over.<sup>20</sup>

The Department of General Services must act on a request to file a late claim within 45 days.<sup>21</sup> If the Department of General Services does not act, the request is considered to be denied when the 45 days have passed.<sup>22</sup> If the Department of General Services grants the request, it will file the claim and then either grant or deny the claim as described in § 18.5.

A plaintiff can challenge the Department of General Services' denial of a request to file a late claim by filing a petition in the superior court of the county with jurisdiction over the state civil lawsuit (see § 18.13).<sup>23</sup> The petition must be filed within six months after the denial of the request to file a late claim was denied.<sup>24</sup> The petition must state that a late claim application was made and denied, describe the reasons for the late filing, and set forth the facts of the underlying claim.

The plaintiff must serve the Department of General Services with a copy of the petition and a written notice of the time and place for a court hearing on the petition. The petition may be served by regular mail, by express mail, in person or (in some courts) by fax or electronically.<sup>25</sup> The petition and notice must be served on the Department of General Services at least 21 calendar days before the hearing date, or at least 26 days before the hearing date if the notice is served by mail.<sup>26</sup> The Department of General Services can file a written response no less than 10 days before the hearing, and the plaintiff can file a written reply no less than five days before the hearing.<sup>27</sup>

A superior court considering a petition to file a late claim must resolve any doubts in favor of granting relief to the plaintiff.<sup>28</sup> If the court grants the petition, the state civil lawsuit must be filed within 30 days after the order.<sup>29</sup> If the court denies the petition, the plaintiff can appeal the issue to the state court of appeal for the district and then request review by the California Supreme Court.

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<sup>19</sup> Government Code § 911.6(b)(3).

<sup>20</sup> Government Code § 911.6(b)(4); see, e.g., *Draper v. City of Los Angeles* (1990) 52 Cal.3d 502 [276 Cal.Rptr. 864] (relief from timely filing requirement granted where plaintiff unconscious and brain-damaged throughout time frame).

<sup>21</sup> Government Code § 911.6(a).

<sup>22</sup> Government Code § 911.6(c).

<sup>23</sup> Government Code § 946.6(a).

<sup>24</sup> Government Code § 946.6(b). A late petition was excused by a court when an attorney's secretary mistakenly erased the filing deadline from the attorney's calendar. *Renteria v. Juvenile Justice, Department of Corrections and Rehabilitation* (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777].

<sup>25</sup> Code of Civil Procedure § 1005(b); Code of Civil Procedure §§ 1010-1013.

<sup>26</sup> Government Code § 946.6(d); Code of Civil Procedure § 1005(b).

<sup>27</sup> Code of Civil Procedure § 1005(b).

<sup>28</sup> *Bettencourt v. Los Rios Community College District* (1986) 42 Cal.3d 270 [228 Cal.Rptr. 190]; *Ebersol v. Cowan* (1983) 35 Cal.3d 427 [197 Cal.Rptr. 601]; *Greene v. California* (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52].

<sup>29</sup> Government Code § 946.6(f).



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However, if the superior court denies the petition and the appeal is unsuccessful, the plaintiff will not be allowed to proceed with the lawsuit.

### 18.7 Notice Requirement in Medical Malpractice Cases

A plaintiff bringing a medical malpractice case against a health care provider must give the defendant notice of the intention to sue at least 90 days before filing the suit.<sup>30</sup> If the notice is served with 90 days of the expiration of the statute of limitations (see § 18.12), the time for filing the action is extended to 90 days after service of the notice.<sup>31</sup>

It is no longer necessary for the plaintiff to file a notice with the Medical Board, as former California Code of Civil Procedure § 364.1 has been repealed.

People who are taken to a medical facility outside the prison, where they are injured by negligent or incompetent medical care, may be able to sue the outside medical care provider without being subject to the special rules regarding suits against government officials by incarcerated people. The timeline for an incarcerated person to file the lawsuit will be extended for two years past the regular statute of limitations.<sup>32</sup>

### 18.8 Lawsuits for Violations of State Tort Law

California law allows plaintiffs to sue for many type of “torts,” which are bad acts or violations of legal duties that inflict some type of physical or mental injury. Tort lawsuits are sometimes called personal injury actions. Some of the tort law is common law developed in court cases and some is set down in statutes. There are many grounds for suits under tort law, and a complete discussion of torts is beyond the scope of this *Handbook*. Among the torts that a plaintiff might allege are assault, battery, false imprisonment,<sup>33</sup> wrongful death,<sup>34</sup> medical malpractice, malicious prosecution, negligence, intentional infliction of emotional distress, wrongful taking of or damage to personal property. A person might allege that a prison official or employee violated the duty on officials to protect them from foreseeable harm or to abstain from imposing cruel, corporal, or unusual punishments or punishments not “authorized by the Director of Corrections.”<sup>35</sup> In any tort case, the plaintiff must show that the defendant acted with a particular mental state, such as intentionally or negligently; the mental state that must be shown depends on the type of tort being alleged. People in prison do not have to show any greater degree of harm or level of malicious intent than other tort plaintiffs.

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<sup>30</sup> Code of Civil Procedure § 364(a).

<sup>31</sup> Code of Civil Procedure § 364(d).

<sup>32</sup> See, e.g., *Brooks v. Mery Hospital* (2016) 1 Cal.App.5th 1 [204 Cal.Rptr.3d 289].

<sup>33</sup> See, e.g., *Shoye v. County of Los Angeles* (2012) 203 Cal.App.4th 947, 953 [137 Cal.Rptr.3d 839] (false imprisonment due to mistaken identification as a person who violated parole).

<sup>34</sup> See, e.g., *Lucas v. County of Los Angeles* (1996) 47 Cal.App.4th 277, 282-283 [54 Cal.Rptr.2d 655].

<sup>35</sup> Penal Code §§ 2651-2652. However, a person in prison cannot obtain damages as a remedy for a violation of the California Constitution’s cruel and unusual punishment clause (California Constitution, Article I, § 17); *Giraldo v. California Dept. of Corrections and Rehabilitation* (2008) 168 Cal.App.4th 231, 250-252 [85 Cal.Rptr.3d 371] (case alleging that person who is transgender (male-to-female) in prison suffered sexual assaults).

A plaintiff in a state tort case usually asks for money damages. Unlike federal civil rights (§ 1983) cases, there are no special limits regarding damages awards in cases involving people in prison. However, the state law does impose some limits that bar “prisoners” from suing “public entities” and/or their employees for many types of wrongful acts. The immunities are set forth in the Government Claims Act (Government Code § 810 et seq.), and are described in more detail in § 18.9.

A person in prison can also sue the state or a state official in a state civil case for declaratory relief (an order setting forth the rights of the parties) or injunctive relief (an order requiring officials to take or not take some particular action).<sup>36</sup> The state and state officials do not have immunity from claims for declaratory or injunctive relief.<sup>37</sup> Also, attorney fees could be available for work done to gain injunctive relief if the suit vindicates important rights affecting the public interest (see § 18.15). Thus, a person who is seeking money damages may want to include a request for injunctive or declaratory relief in the same suit as a request for money damages. However, it is usually much easier for a person to obtain injunctive relief through a state court petition for writ of habeas corpus (see Chapter 15).

## 18.9 Who May Be Sued and Who is Immune from Liability

The California Government Claims Act (Government Code § 810 et seq.) limits the tort liability of the state and state employees for injuries to incarcerated people. In general, people in prison can very rarely sue the state of California and public agencies for money damages under state tort law because the law makes public entities “immune” from liability. However, people in prison sometimes can sue individual state, county, or city employees for their wrongful or negligent acts or omissions, although there are some circumstances in which employees also are immune from liability.

Under California law, the state of California and its agencies are usually immune from tort liability for injuries or wrongs caused by its officials and employees.<sup>38</sup> Also, the state is immune from liability for injury resulting from a determination to release a person on parole or to deny or revoke parole.<sup>39</sup> Moreover, the state of California, state agencies like the California Department of Corrections and Rehabilitation (CDCR), the Board of Parole Hearings (BPH), and the prisons usually cannot be

<sup>36</sup> See, e.g., *De Lancie v. Superior Court* (1982) 31 Cal.3d 865, 877 [183 Cal.Rptr. 866] (finding proper cause of action in request for declaratory and injunctive relief for jail officials’ alleged violation of Penal Code §§ 2600 and 2601). An action seeking injunctive or declaratory relief that is based on a violation of state law cannot be filed in federal court because the Eleventh Amendment of the U.S. Constitution prohibits federal courts from enforcing compliance with state law. *Pennhurst State School & Hospital v. Halderman* (1984) 465 U.S. 89 [104 S.Ct. 900; 79 L.Ed.2d 67].

<sup>37</sup> Government Code § 814; Government Code § 844.6(a).

<sup>38</sup> Government Code § 815; Government Code § 844.6(a). If the plaintiff is not being held in a prison or jail facility, a public entity is liable for any injury proximately caused by an act or omission of an employee of the public entity acting within the scope of his employment that would give rise to a cause of action against that employee. Government Code § 815.2. One court has held that the state and its agencies are not immune from suit by plaintiff who is on parole and suing about a parole matter. *Fearon v. California Dept. of Corrections* (1984) 162 Cal.App.3d 1254 [209 Cal.Rptr. 309] (allowing person on parole to sue the CDCR for negligently losing his property). It also appears that the immunities do not apply to lawsuits brought by patients in the Department of State Hospitals. See *Sykora v. Dept. of State Hospitals* (2014) 255 Cal.App.4th 1530-1533 [171 Cal.Rptr.3d 583].

<sup>39</sup> Government Code § 845.8; *Torres v. California Dept. of Corrections and Rehabilitation* (2013) 217 Cal.App.4th 844 [158 Cal.Rptr. 3d 876] (the CDCR was immune from liability for an erroneous decision to revoke parole). This immunity does not extend to injury caused by continuing to incarcerate a person on a parole hold after the parole agents knew or should have known that they had arrested the wrong person. *Perez-Torres v. California* (2007) 42 Cal.4th 136, 142 [64 Cal.Rptr.3d 155].

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sued by people in prison under state tort law.<sup>40</sup> The same types of immunities also apply to lawsuits by people in jail against a city or county or a local agency.<sup>41</sup>

There are some exceptions to the state's immunity. These exceptions allow people in prison to sue the state and its agencies for money damages under state tort law in the following circumstances:

- ◆ Injury was caused by a public employee's failure to take reasonable action to summon medical care, where the public employee knew or had reason to know that the person needed immediate medical care.<sup>42</sup> This exception does not extend to claims that a state employee provided negligent medical care.<sup>43</sup>
- ◆ A public employee, acting in the scope of employment, caused death or injury by negligence in the operation of a motor vehicle.<sup>44</sup> However, in some cases, the public entity may be immune for accidents that happen while an employee is responding to an emergency call or pursuing a person suspected of a crime.<sup>45</sup>
- ◆ A public employee caused damage by intentionally and unjustifiably interfering with the right to obtain judicial review of the legality of the incarceration. However, before a person cannot sue on this ground until after court determines that the incarceration was illegal.<sup>46</sup>
- ◆ A public employee caused injury due to a determination as to whether to parole or release a person, whether to revoke parole or release, or by imposing conditions of parole or release.<sup>47</sup>

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<sup>40</sup> See, e.g., *Leyva v. Nielsen* (2000) 83 Cal.App.4th 1061 [100 Cal.Rptr.2d 231]; *Wright v. California* (2004) 122 Cal.App.4th 659 [19 Cal.Rptr.3d 92]; but see *Lawson v. Superior Court* (2010) 180 Cal.App.4th 1372 [103 Cal.Rptr.3d 834] (immunities for public entities did not apply to private company that operated prison-mother facility or to its employees; also, immunities that apply to lawsuits brought by people in prison did not apply when injuries were to daughter of person in a prison-mother program).

<sup>41</sup> Government Code § 811.2; Government Code § 844; see *Zeilman v. County of Kern* (1985) 168 Cal.App.3d 1174 [214 Cal.Rptr. 746]; *Badiggo v. County of Ventura* (1989) 207 Cal.App.3d 357 [254 Cal.Rptr. 771].

<sup>42</sup> Government Code § 844.6(a); Government Code § 845.6; see *Watson v. California* (1993) 21 Cal.App.4th 836 [26 Cal.Rptr.2d 262 (liability limited to serious and obvious medical conditions)]; *Lucas v. County of Los Angeles* (1996) 47 Cal.App.4th 277 [54 Cal.Rptr.2d 655]; but see *Lawson v. Superior Court* (2010) 180 Cal.App.4th 1372 [103 Cal.Rptr.3d 834] (immunity of both state and employee where depriving person in prison-mother program of medication and breast pump did not amount to failure to take action in response to need for immediate medical care).

<sup>43</sup> See, e.g., *Castaneda v. California Dept. of Corrections and Rehabilitation* (2013) 212 Cal.App.4th 1051, 1072-1074 [151 Cal.Rptr.3d 648 (the state was immune from liability for injury to a person in prison who died of cancer; the duty to "summon" medical care did not require consultation with specialist after the person's cancer diagnosis)].

<sup>44</sup> Government Code § 844.6(b); Vehicle Code §§ 17000-17004.5.

<sup>45</sup> Vehicle Code § 17004; Vehicle Code § 17004.7.

<sup>46</sup> Government Code § 844.6(a); Government Code § 845.4.

<sup>47</sup> Government Code § 845.8(a). This immunity does not extend to incarceration after the public employee knew or should have known the person being held for revocation proceedings was not actually a person on parole. *Perez-Torres v. California* (2007) 42 Cal.4th 136, 141-142 [64 Cal.Rptr.3d 155].

- ◆ The physical injuries were caused by a wrongful or negligent act during the course of biomedical or behavioral research.<sup>48</sup>
- ◆ Damage was suffered as a result of a breach of a contract.<sup>49</sup>
- ◆ The case involves liability under worker's compensation law (see § 4.43).<sup>50</sup>
- ◆ The claims are for non-monetary relief only, such as a request for an injunction or declaratory relief.<sup>51</sup>

Compared to the state itself, individual public employees like correctional officers, prison administrators, and prison medical staff may be sued for their negligent or wrongful acts except when the law specifically provides for an immunity.<sup>52</sup> The situations in which public employees are immune to lawsuits by people in prison are as follow:

- ◆ A public employee is generally not liable for an injury resulting from an exercise of their official discretion.<sup>53</sup>
- ◆ A public employee is not liable for injury caused by instituting or prosecuting a judicial or administrative proceeding maliciously or without probable cause<sup>54</sup> Moreover, prosecutors and judges traditionally have immunity under the common law for their quasi-judicial and judicial actions.<sup>55</sup>
- ◆ A public employee is not liable for an injury caused by the failure to furnish or obtain medical care, except where the employee should have known of the need for immediate care and failed to take reasonable action to summon care.<sup>56</sup>
- ◆ A public employee is not liable for injuries caused by diagnosing or failing to diagnose or treat mental illness or addiction, or for administering a prescribed mental health

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<sup>48</sup> Penal Code § 3524.

<sup>49</sup> Government Code § 814; Government Code § 844.6(a).

<sup>50</sup> Government Code § 814.2; Government Code § 844.6(a).

<sup>51</sup> Government Code § 814; Government Code § 844.6(a).

<sup>52</sup> Government Code § 844.6(d). See, e.g., *Cousins v. Lockyer* (9th Cir. 2009) 568 F.3d 1063 (the immunity statute (Government Code § 821.6) does not apply to false imprisonment claims); see also *Sullivan v. County of Los Angeles* (1974) 12 Cal.3d 710, 719-722 [117 Cal.Rptr.241]; *Lawson v. Superior Court* (2010) 180 Cal.App.4th 1372, 1398-1399 [103 Cal.Rptr.3d 834] (immunities for public employees did not apply to employees of private company that operated prison-mother facility).

<sup>53</sup> Government Code § 820.2.

<sup>54</sup> Government Code § 821.6.

<sup>55</sup> *Bocanegra v. Jakubowski* (2015) 241 Cal.App.4th 848, 858 [194 Cal.Rptr.3d 327]; *Frost v. Geernaert* (1988) 200 Cal.App.3d 1104, 1107-1108 [246 Cal.Rptr. 440].

<sup>56</sup> Government Code § 845.6.

## § 18.10

treatment. However, a public employee may be liable for injury caused by negligence or wrongdoing in prescribing or administering a mental health treatment.<sup>57</sup>

- ◆ A public employee is not liable for any injury resulting from a decision to confine or release a person for mental illness or addiction.<sup>58</sup>
- ◆ A public employee is not liable for a vehicle accident that happens while responding to an emergency call or pursuing a criminal suspect.<sup>59</sup>

In summary, people in prison *cannot* sue the state or a state agency for money damage under state tort law unless the case fits into an exception. People in prison *can* sue individual state employees for money damages under state tort law, except for some exceptions. If neither the state nor the employees are immune from suit, a person can name both the state and the employees as defendants in the lawsuit.

### 18.10 Bane Civil Rights Act Lawsuits

California has its own civil rights law, called the Bane Civil Rights Act, which is set forth in Civil Code § 52.1. Under the Bane Civil Rights Act, a plaintiff can sue for damages if the defendant, used threats of violence, intimidation or coercion to prevent the plaintiff from doing something they had the legal right to do or to force the plaintiff to do something that they were not legally required to do.<sup>60</sup> The plaintiff does not need to show that the defendant was acting under color of law.<sup>61</sup> Most importantly, it appears that prison officials do not have immunity from lawsuits for money damages filed under the Bane Civil Rights Act.<sup>62</sup>

A plaintiff can also request an injunction or declaratory relief in a state civil rights lawsuit.<sup>63</sup> However, as previously discussed, people in prison are usually better off seeking injunctive relief from prison officials through a state court petition for writ of habeas corpus (see Chapter 15).

### 18.11 Small Claims Lawsuits

A small claims action is a special type of state court lawsuit for minor property loss or damage claims. A small claims suit is usually the speediest and easiest type of legal action for getting

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<sup>57</sup> Government Code § 855.8; *Johnson v. County of Los Angeles* (1983) 143 Cal.App.3d 298 [191 Cal.Rptr. 704] (discussing difference between failure to summon care and failure to provide treatment in suicide case).

<sup>58</sup> Government Code § 856.

<sup>59</sup> Vehicle Code § 17004; Vehicle Code § 17004.7.

<sup>60</sup> Civil Code § 52.1; *Bender v. County of Los Angeles* (2013) 217 Cal.App.4th 968, 976-979 [159 Cal.Rptr.3d 204] (upholding decision that unlawful arrest and beating of unresisting hand-cuffed man violated Bane Civil Rights Act); *Shoye v. County of Los Angeles* (2012) 203 Cal.App.4th 947, 955-956 [137 Cal.Rptr.3d 839] (wrongful arrest and detention, without more, does not violate Bane Civil Rights Act); *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 841-842 [11 Cal.Rptr.3d 692] (allowing suit to proceed under civil rights act for unreasonable search and seizure).

<sup>61</sup> Civil Code § 52.1(a).

<sup>62</sup> Serbe, *Judge: Black inmate who contracted valley fever can sue prison*, S.F. Daily Journal (Jul. 10, 2015).

<sup>63</sup> Civil Code § 52.1.

compensation for lost or damaged personal property. A person may bring a small claims court action for any amount of damages up to \$10,000.<sup>64</sup>

Because the state of California and its agencies are immune from most lawsuits for money damages (see § 18.9), people in prison often cannot bring small claims actions against the CDCR itself. However, people may sue individual CDCR staff members who lost or damaged the property or who set the policy requiring destruction of the property.

Small claims lawsuits are filed on standard complaint forms. A plaintiff must state in the complaint that all administrative remedies have been exhausted prior to filing the small claims action (see §§ 18.3-18.6). A small claims case must be filed in the county where the property loss occurred or where the defendant resides.<sup>65</sup> There is a fee for filing a small claims action, but a person who is indigent may ask the court to waive the filing fee.<sup>66</sup> The basic court forms for filing a small claims suit (Forms SC-100-INFO, SC-100, SC 100-A and MC-030) are attached as Appendix 18-B. Forms should also be available by writing to the clerk of the local superior court.

A person who brings a small claims court action does not need to appear in court to litigate the case. Instead, they may submit evidence supporting the claim by filing written declarations and exhibits.<sup>67</sup> In addition, another person can go to the court hearings on their behalf, so long as that person is not a lawyer.<sup>68</sup>

A plaintiff generally cannot appeal after the denial of relief in a small claims action.<sup>69</sup>

The California Department of Consumer Affairs publishes an excellent free self-help manual on small claims actions called *The Small Claims Court: A Guide to Its Practical Use*; the manual is available at [www.dca.ca.gov/publications](http://www.dca.ca.gov/publications) or by writing to Department of Consumer Affairs, Office of Publications, Design & Editing (PDE) 1625 North Market Boulevard, Suite N-112, Sacramento, CA 95834. Forms and more information on small claims lawsuits can be found on the California Courts' Self-Help Center website at [www.courts.ca.gov/selfhelp-smallclaims.htm](http://www.courts.ca.gov/selfhelp-smallclaims.htm).

## 18.12 When to File State Civil Lawsuits: Statutes of Limitations

The time for filing a state civil lawsuit against prison officials normally begins when the Government Claims Board denies a claim (§ 18.5). If the Board sends a notice that the claim has been denied, any state civil lawsuit must be filed within six months after the date that the Board's notice

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<sup>64</sup> Code of Civil Procedure § 116.221.

<sup>65</sup> Code of Civil Procedure §§ 116.370, 395. A list of California state courts is in Appendix 15-A.

<sup>66</sup> Code of Civil Procedure § 116.320(c).

<sup>67</sup> Code of Civil Procedure § 116.540(f).

<sup>68</sup> Code of Civil Procedure §§ 116.510-116.530.

<sup>69</sup> Code of Civil Procedure § 116.710(a).

## § 18.13

was deposited in the mail.<sup>70</sup> If the Board files the claim but does not officially deny it or does not send a notice of the denial, then the state civil lawsuit must be filed within two years after the date on which the injury occurred or was discovered.<sup>71</sup> The “mailbox rule” applies, which means that a pro se complaint is deemed filed on the date that it is properly delivered to prison officials for mailing (rather than on the date it is actually received by the court).<sup>72</sup>

If the Government Claim is denied while a CDCR administrative appeal is still pending (see § 18.3), the additional time needed to complete the administrative appeal process does not count toward the deadline.<sup>73</sup>

When a person in prison wants to sue for money damages for injuries caused by an outside health care provider, the lawsuit must be filed within three years after the date of the injury.<sup>74</sup>

### 18.13 Where to File State Civil Lawsuits: Jurisdiction and Venue

A plaintiff may be able to file the state civil lawsuit in either federal or state court. The circumstance that will determine where the case can be filed depends on the claims being raised and the type of relief being requested.

State civil law claims can be filed in federal court if the plaintiff is also raising related federal civil rights (§ 1983) claims in the same case and the state law part of the action is seeking money damages. This type of mixed federal and state law case can also be filed in state court. The choice is up to the plaintiff. For the reasons explained in § 17.14, a person who is filing a lawsuit that contains both state and federal law claims usually should file the complaint in federal court. Note that if a federal court dismisses the federal law claims or grants summary judgment to the defendants on the federal law claims, it will usually dismiss the state law claims without prejudice to re-filing the case in state court.<sup>75</sup>

If a plaintiff is raising only state law issues, then the state civil law action must be filed in a state court; a federal court does not have jurisdiction over cases that are based only on state law. Also, a state civil law claim seeking injunctive or declaratory relief cannot be filed in federal court because the Eleventh Amendment of the U.S. Constitution prohibits federal courts from enforcing state law.<sup>76</sup>

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<sup>70</sup> Government Code § 945.6(a)(1). The six-month statute of limitations means six calendar months or 182 days, whichever is longer. *Gonzales v. County of Los Angeles* (1988) 199 Cal.App.3d 601, 604 [245 Cal.Rptr. 112]. A lawsuit against the state or a state employee is timely under this rule even if the normal statute of limitations for the cause of action has already passed. See *Massa v. Southern Cal. Rapid Transit Dist.* (1996) 43 Cal.App.4th 1217 [51 Cal.Rptr.2d 164]; *Schmidt v. Southern Cal. Rapid Transit Dist.* (1993) 14 Cal.App.4th 23 [17 Cal.Rptr.2d 340].

<sup>71</sup> Government Code § 945.6(a)(2).

<sup>72</sup> *Silverbrand v. County of Los Angeles* (2009) 46 Cal.4th 106 [92 Cal.Rptr.3d 595]; see also *Shufelt v. Hall* (2008) 163 Cal.App.4th 1020 [77 Cal.Rptr.3d 900]; *Moore v. Twomey* (2004) 120 Cal.App.4th 910 [16 Cal.Rptr.3d 163].

<sup>73</sup> *Wright v. California* (2004) 122 Cal.App.4th 659 [19 Cal.Rptr.3d 92].

<sup>74</sup> §Code of Civil Procedure § 340.5; Code of Civil Procedure § 352.1; *Belton v. Bowers Ambulance Service* (1999) 20 Cal.4th 928, 931-932 [86 Cal.Rptr.2d 107].

<sup>75</sup> 28 U.S.C. § 1367(c)(3); *Aciri v. Varian Assocs., Inc.* (9th Cir. 1997) 114 F.3d 999, 1001; see, e.g., *Morton v. Hall* (C.D. Cal. 2006) 455 F. Supp.2d 1066, 1072.

<sup>76</sup> *Pennhurst State School & Hospital v. Halderman* (1984) 465 U.S. 89 [104 S.Ct. 900; 79 L.Ed.2d 67].

A plaintiff also needs to decide which court district to file in. Usually, a civil case should be filed in the trial-level court in the location where the injury or loss occurred or where one or more of the defendants reside.<sup>77</sup> For people in California prisons filing in federal court, this will be one of the four federal court districts in California (Central, Eastern, Northern, or Southern) (see § 17.14). For people filing in state court, this would be the superior court for the appropriate county. Appendix 15-A contains a list of all the state courts with notes about which the prisons are located in which court districts. Appendix 16-A contains a list of all the federal courts with notes about which the prisons are located in which court districts.

## 18.14 Basic Procedures for State Tort Lawsuits

If the plaintiff wants to include state civil claims in a federal civil rights (§ 1983) lawsuit filed in federal court, the plaintiff should fill out the § 1983 complaint form as described in § 17.21. The description of the facts should include a statement that the damages claim was presented to the Government Claims Board and denied. The plaintiff should also state that related state law claims are being raised and include the state law claims in the descriptions of the legal grounds for the case. For example, a plaintiff who was beaten by a correctional officer could allege use of excessive force in violation of the U.S. Constitution's Eighth Amendment, a state law civil rights violation, and state law torts of assault and battery. A lawsuit filed in federal court will then proceed under the federal rules of procedure discussed in §§ 17.21-17.32).

If the plaintiff files the lawsuit in state court, the case will be governed by the California Code of Civil Procedure, California Rules of Evidence,<sup>78</sup> and the local rules of the superior court. There are standard form complaints for California civil law actions which be available from the law library or the county clerk. The forms are also on the California courts' website at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm). Most of the standard forms necessary for filing and serving a complaint in a state tort case (PLD-PI-001, PLD-PI-001(1), PLD-PI-001(2), PLD-PI-001(3), PLD-PI-001(4), PLD-PI-001(6), POS-030, POS-040) are included in Appendix 18-C. Some county courts may also require a plaintiff to file additional local forms.

There are filing fees for a state court lawsuit, which vary depending on the amount of the claim and several other factors;<sup>79</sup> specific information on fees can be obtained by writing to the local court clerk. Many of the superior courts also include information about filing and fees on their websites. A person who does not have enough money to pay fees can ask the court to waive the fees; the court form and instruction sheet for requesting a fee waiver are in Appendix 15-G.

The detailed procedures for filing, serving, and prosecuting a state court lawsuit are beyond the scope of this *Handbook*. Information about California civil case procedure is available in various resources. Books published by the Continuing Education of the Bar (CEB) can be very helpful; these include *California Government Tort Liability Practice*, *Civil Procedure Before Trial*, and *Civil Procedure During Trial*. Witkin's *Summary of California Law*, *California Evidence*, and *California Procedure* are also useful resources.

<sup>77</sup> Code of Civil Procedure § 395(a).

<sup>78</sup> See, e.g., *Denari v. Superior Court of Kern County* (1989) 215 Cal.App.3d 1488 [264 Cal.Rptr. 261] (where mixed federal and state claims brought in state court, state law evidentiary privileges applied).

<sup>79</sup> See filing fee schedule in Code of Civil Procedure § 116.230.



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If a person who is indigent is a party to a civil action involving personal or property interests, a trial court must assure that the person is afforded meaningful access to the courts. There are alternative ways for a court to accomplish this goal, such as deferring the action until the person is released, appointing counsel, transferring the person to court, using depositions in lieu of personal appearances, holding the trial in prison, conducting hearings by telephone, propounding written discovery, or using closed-circuit television or other electronic media.<sup>80</sup>

### 18.15 Attorney's Fees

The possibility of an award of attorneys' fees can be an important factor in convincing an attorney to represent a person in a civil lawsuit. The availability of attorneys' fees will depend on the issues being raised in the case.

As discussed in §§ 17.33-17.34, there are laws that allow a court to award attorney's fees to the winning party in a federal civil rights (§ 1983) suit. A successful plaintiff who files a case (in either federal court or in state court) raising mixed federal and state claims may be awarded attorneys' fees under these laws.

Courts are not authorized to award attorneys' fees in cases raising only state tort law claims that are primarily intended to win money damages for an individual person. Thus, if a person presents only state tort law claims (or wins only on state tort law claims) no attorneys' fees will be awarded. In such cases, the only incentive for a lawyer to take the case is likely to be an agreement that the plaintiff will pay the lawyer some portion of any money damages award.

In contrast, a court *can* order losing defendants to pay the plaintiff's attorneys fees and other litigation costs in a case brought under the Bane Civil Rights Act.<sup>81</sup> This provides a strong incentive for plaintiffs to allege that the defendants' actions violated that Act in addition to violating the federal constitution and/or state tort law.

Finally, if a plaintiff's state court case results in injunctive relief vindicating important public rights, the court may award attorneys' fees; this is sometimes called the "private attorney general" doctrine.<sup>82</sup> Because such fees are not subject to the Prison Litigation Reform Act (PLRA), they may be more generous than fees awarded on federal civil rights claims. However, attorneys' fees cannot be granted if the primary effect of a lawsuit is to benefit the plaintiff's personal economic interests.<sup>83</sup> In

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<sup>80</sup> *Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 792 [39 Cal.Rptr.2d 47]; *Apollo v. Gyaami* (2008) 167 Cal.App.4th 1468, 1482-1485 [85 Cal.Rptr.3d 127] (unrepresented plaintiff in prison civil case was denied meaningful access to the courts where made many reasonable though unsuccessful attempts at effecting service, filing timely motions, and appearing at hearings); *Jameson v. Desta* (2009) 179 Cal.App.4th 672, 682-684 [101 Cal.Rptr.3d 345] (trial court abused its discretion by dismissing tort case because incarcerated person did not appear at hearing by telephone, even though prison staff were not allowing them to communicate with court by telephone).

<sup>81</sup> Civil Code § 52.1(h); see, e.g., *Bender v. County of Los Angeles* (2013) 217 Cal.App.4th 968, 986-990 [159 Cal.Rptr.3d 204].

<sup>82</sup> Code of Civil Procedure § 1021.5; see *Woodland Hills Residents' Assn. v. City Council of Los Angeles* (1979) 23 Cal.3d 917, 925 [154 Cal.Rptr. 503]; *Press v. Lucky Stores* (1983) 34 Cal.3d 311, 317 [193 Cal.Rptr. 900]; see also *Serrano v. Priest* (1977) 20 Cal.3d 25, 33 [141 Cal.Rptr. 315] (authorizing fee awards for constitutional claims). § 1021.5 does not authorize compensation for costs of litigation other than attorneys' fees. *Olson v. Automobile Club of Southern California* (2008) 42 Cal.4th 1142, 1156-1157 [74 Cal.Rptr.3d 81].

<sup>83</sup> *Flannery v. California Highway Patrol* (1998) 61 Cal.App.4th 629, 637 [71 Cal.Rptr.2d 632].

deciding whether to award a plaintiff fees, a court considers whether the case resulted in enforcement of an important right affecting the public interest, whether it conferred a significant benefit on a large group of people, and whether there was a need for the plaintiff to take on the burden of enforcing that right.<sup>84</sup> Attorneys' fees are appropriate when the case benefits to people in prison and the general public.<sup>85</sup>

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<sup>84</sup> *City of Hawaiian Gardens v. City of Long Beach* (1998) 61 Cal.App.4th 1100, 1112 [72 Cal.Rptr.2d 134]; *Woodland Hills Resident Assn. v. City Counsel of Los Angeles* (1979) 23 Cal.3d 917, 934-935 [154 Cal.Rptr. 503].

<sup>85</sup> *In re Head* (1986) 42 Cal.3d 223, 228 [228 Cal.Rptr. 184]; *Inmates of the Sybil Brand Institute for Women v. County of Los Angeles* (1982) 130 Cal.App.3d 89, 112 [181 Cal.Rptr. 599].

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES  
**Government Claim Filing Instructions**  
DGS ORIM 06 (Rev. 05/2017)



**Government Claims Program**  
**Office of Risk and Insurance Management**  
**Department of General Services**  
**P.O. Box 989052, MS 414**  
**West Sacramento, CA 95798-9052**

**1-800-955-0045 • [www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx](http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx)**

#### **Filing Fee Requirement**

The Government Code requires a \$25.00 filing fee for all claims presented to the Office of Risk and Insurance Management (ORIM). Materials submitted without a filing fee will not be processed. Checks or Money Orders should be made out to the State of California. If you cannot afford the filing fee, you may request a waiver. For most claim types, the filing fee is refunded if the claim is paid.

#### **IMPORTANT NOTICE REGARDING CLAIMS FOR STALE-DATED WARRANTS (UNCASHED CHECKS):**

Due to changes in State law, effective July 1, 2016, claims for stale-dated warrants (uncashed checks) DO NOT require the \$25.00 filing fee and should be filed directly with the department that issued the original check. For example, claims for stale-dated State tax refund checks should be filed with the Franchise Tax Board. However, this form can be used to file such claims. For more information, please contact GCP at 1-800-955-0045.

#### **What types of claims can be filed with Government Claims?**

Claims can be filed for losses you believe were caused by the action, or inaction, of a state agency. Claims may include:

- Damage to real or personal property
- Refund of a tax, fee, or penalty
- Reimbursement for state employee property loss, benefits, salary, or travel expenses
- Contract disputes

#### **What types of claims should not be filed with Government Claims?**

Claims against local government agencies must be filed with the responsible local agency. Claims against a University of California (UC) campus must be filed with the UC Regents. Claims against a California State University (CSU) campus must be filed with the campus itself. Claims against school districts or community college districts must be filed with the responsible district. Claims against judicial branch entities must be filed with the Judicial Council.

#### **Delegated Authority Claims**

The VCGCB grants some agencies delegated authority to resolve claims under \$1,000.00. If you have a claim for less than \$1,000.00, you may file directly with the following entities: California State Teachers' Retirement System, Department of State Hospitals, Department of Motor Vehicles, California Highway Patrol, Department of Consumer Affairs, California Department of Corrections and Rehabilitation, California State Coastal Conservancy, and Department of General Services.

#### **The Delegated Authority of the California Department of Transportation (Caltrans)**

By law, Caltrans has delegated authority to resolve claims for dollar amounts within the jurisdiction of the small claims courts. The current jurisdiction of the small claims courts is \$10,000.00. Therefore, you may file claims for damages less than \$10,000.00 directly with Caltrans.

#### **Claims for Subrogation:**

Claims for subrogation should name the insurance company seeking compensation as the claimant. The insurance company employee handling the claim should be named the representative. Please provide the name of your insured in the space provided (section 7).

#### **What are the time limits for filing a claim?**

Claims relating to the death or injury of a person, or damage to personal property or crops, must be filed no later than six months after the date of the incident. Other claims must be filed no later than one year after the date of the incident. You can request permission to file a late claim. You may want to consult an attorney if you are not sure how the time limits apply to your claim.

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**Instructions for filling out this form:**

<b>1</b>	Provide the full name of the person claiming damage or injury. If the claimant is a business or entity other than an individual, put the name of the entity here.
<b>2</b>	Provide a daytime telephone number.
<b>3</b>	Provide an email address. <i>(Optional)</i>
<b>4</b>	Provide a complete mailing address.
<b>5</b>	If you are an inmate or a patient at a state hospital, please provide your identification number.
<b>6</b>	If the claim is being filed on behalf of a minor (someone younger than 18), please give the minor's birthdate.
<b>7</b>	If you are an insurance company claiming subrogation, please provide your insured's name here.
<b>8</b>	If your claim relates to another claim or claimant, please provide the claim number or claimant's name here.
<b>9</b>	You may wish to consult an attorney for assistance with filing a claim, however it is not required. If an attorney or other person (such as the parent or legal guardian of a minor or conservator of an adult) is representing you, please complete this section. If this section is completed, all correspondence regarding this claim will be sent to the representative.
<b>10</b>	Provide a daytime telephone number, including area code, for the attorney or representative.
<b>11</b>	Provide an email address for the attorney or representative. <i>(Optional)</i>
<b>12</b>	Provide a complete mailing address for the attorney or representative.
<b>13</b>	Describe the relationship of the attorney or representative to the claimant.
<b>14</b>	If this claim is regarding a stale-dated warrant (an uncashed check) more than three years old, provide the: <ul style="list-style-type: none"> <li>• date of issue</li> <li>• amount</li> <li>• The name of the agency that issued it.</li> <li>• warrant number</li> </ul> <p><b>Attach a copy of the front and back of the warrant.</b> Please note: It is best to claim replacement warrants directly from the agency that issued the originals.</p>
<b>15</b>	State the exact date of the incident that you believe caused the damage or injury. <ul style="list-style-type: none"> <li>• <b>If the incident took place over more than one date</b>, provide both the beginning and ending dates.</li> <li>• <b>If the incident is ongoing</b>, please provide the beginning date and the most recent date it occurred.</li> <li>• <b>Late Claims:</b> <ul style="list-style-type: none"> <li>○ The Board must receive claims relating to the death or injury of a person, or damage to personal property or growing crops, no later than <b>six</b> months after the date of the incident.</li> <li>○ If your claim is for equitable indemnity, the filing deadline is six months after the date you were served with the underlying lawsuit. If such a claim is filed more than six months from the date of the incident, <b>attach a written explanation for filing late.</b></li> </ul> </li> <li>• Other claims with deadlines must be received no later than one year after the incident date.</li> </ul>
<b>16</b>	Provide the name of the state agency that you believe caused the damage or injury. "State of California" alone is not sufficient. Please spell out the name of the agency and include the name(s) of any state employee(s) that were involved.
<b>17</b>	Enter the total dollar amount being claimed. <ul style="list-style-type: none"> <li>• If you believe the damages are continuing, or anticipated in the future, show a "+" after the dollar amount.</li> <li>• If the total dollar amount exceeds \$10,000, note whether the claim is a limited civil case or a non-limited civil case.</li> <li>• Provide an explanation of how you computed the total amount.</li> <li>• You may declare expenses incurred as well as expenses you expect to have in the future.</li> </ul> <p>Attach copies of all bills, payment receipts, and cost estimates.</p>
<b>18</b>	For all claims involving real property, state-owned buildings or parking lots, and roadway- or vehicle-related claims, provide the street address, city, county, state highway number, road numbers, and/or post mile markers where you believe the damage or injury occurred. Real property includes land, buildings and other fixed structures. Roadway- or vehicle-related claims occurred on a state road or involved a state vehicle.
<b>19</b>	Describe the specific damage or injury that you believe resulted from the incident. You may attach additional information.
<b>20</b>	Describe the circumstances that led up to the damage or injury. State all the facts that support your claim. If it applies, describe the dangerous condition of the public property. If a law enforcement or insurance Collision/Incident Report is submitted with the claim, this section must <b>still</b> be completed in your own words.
<b>21</b>	Explain why you believe the state agency is responsible for the damage or injury.
<b>22</b>	Provide the vehicle license number and any other identifying information, if the claim involves a state vehicle.

<b>23</b>	<p>This section must be completed if the claim involves a motor vehicle.</p> <ul style="list-style-type: none"> <li>• Indicate whether a claim has been filed with your insurance carrier. <ul style="list-style-type: none"> <li>○ If a claim has been filed with your insurance carrier, provide the name, telephone number, and mailing address of the insurance carrier. Also include your policy number and the amount of the deductible.</li> <li>○ If you have received payment, please indicate the date payment was received and the dollar amount.</li> </ul> </li> </ul>
<b>24</b>	<p>The claimant or the claimant's attorney or representative must sign this form.</p>
<b>25</b>	<p>Be sure to attach the \$25 filing fee.</p> <ul style="list-style-type: none"> <li>• Please make your check or money order payable to the State of California.</li> <li>• If you cannot afford the filing fee, you can fill out a "Filing Fee Waiver Request", and attach it to this form. <ul style="list-style-type: none"> <li>○ You obtain the filing fee waiver request form at <a href="http://www.dgs.ca.gov/orim">www.dgs.ca.gov/orim</a> or by calling: 1-800-955-0045.</li> </ul> </li> </ul>



For Office Use Only

**Government Claims Program**  
**Office of Risk and Insurance Management**  
 Department of General Services  
 P.O. Box 989052, MS 414  
 West Sacramento, CA 95798-9052

1-800-955-0045 • [www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx](http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx)

**Clear Form**      **Print Form**

**Is your claim complete?**

- Include a check or money order for \$25 payable to the State of California.
- Complete all sections relating to this claim and sign the form. Please print or type all information.
- Attach copies of any documentation that supports your claim. Please do not submit originals.

**Claimant Information** *Use name of business or entity if claimant is not an individual*

<b>1</b>	<i>Last name</i>	<i>First Name</i>	<i>MI</i>	<b>2</b>	Tel:
				<b>3</b>	Email:
<b>4</b>	<i>Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Zip</i>
<b>5</b>	Inmate or patient number, if applicable:				
<b>6</b>	Is the claimant under 18?		If Yes, please give date of birth:		
<b>7</b>					

*If you are an insurance company claiming subrogation, please provide your insured's name in section 7.*

**8** \_\_\_\_\_

*If your claim relates to another claim or claimant, please provide the claim number or claimant's name in section 8.*

**Attorney or Representative Information**

<b>9</b>	<i>Last name</i>	<i>First Name</i>	<i>MI</i>	<b>10</b>	Tel:
				<b>11</b>	Email:
<b>12</b>	<i>Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Zip</i>
<b>13</b>	Relationship to claimant:				

**Claim Information** *Please add attachments as necessary*

**14** Is your claim for a stale-dated warrant (uncashed check)?     Yes     No    *If No, skip to Step 15.*

State agency that issued the warrant: \_\_\_\_\_

Dollar amount of warrant: \_\_\_\_\_      Date of issue: \_\_\_\_\_

Warrant number: \_\_\_\_\_      *MM/DD/YYYY*

**15** Date of Incident: \_\_\_\_\_

Was the incident more than six months ago?     Yes     No

If YES, did you attach a separate sheet with an explanation for the late filing?     Yes     No

**16** State agencies or employees against whom this claim is filed:

\_\_\_\_\_

**17** Dollar amount of claim: \_\_\_\_\_

If the amount is more than \$10,000, indicate the type of civil case:     Limited civil case (\$25,000 or less)     Non-limited civil case (over \$25,000)

Explain how you calculated the amount:

\_\_\_\_\_

<b>18</b>	Location of the incident:		
<b>19</b>	Describe the specific damage or injury:		
<b>20</b>	Explain the circumstances that led to the damage or injury:		
<b>21</b>	Explain why you believe the state is responsible for the damage or injury:		
<b>22</b>	Does the claim involve a state vehicle?		<input type="radio"/> Yes <input type="radio"/> No
	If YES, provide the vehicle license number, if known:		
<b>Auto Insurance Information</b>			
<b>23</b>	Name of Insurance Carrier		
	Mailing Address	City	State      Zip
	Policy Number:	Tel:	
	Are you the registered owner of the vehicle?	<input type="radio"/> Yes <input type="radio"/> No	
	If NO, state name of owner:		
	Has a claim been filed with your insurance carrier, or will it be filed?	<input type="radio"/> Yes <input type="radio"/> No	
	Have you received any payment for this damage or injury?	<input type="radio"/> Yes <input type="radio"/> No	
	If yes, what amount did you receive?		
	Amount of deductible, if any:		
	Claimant's Drivers License Number:	Vehicle License Number:	
	Make of Vehicle:	Model:	Year:
	Vehicle ID Number:		
<b>Notice and Signature</b>			
<b>24</b>	I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).		
	Signature of Claimant or Representative	Printed Name	Date:
<b>25</b>	Mail this form and all attachments with the \$25 filing fee or the "Filing Fee Waiver Request" to: Government Claims Program, P.O. Box 989052, MS 414, West Sacramento, CA 95798-9052. Forms can also be delivered to the Office of Risk and Insurance Management, 707 3rd street, 1st Floor ORIM, West Sacramento, CA 95605.		

**CLAIMANT INFORMATION**

FIRST NAME	LAST NAME
CLAIM NUMBER (IF KNOWN)	TELEPHONE NUMBER

If you are an inmate in a correctional facility, please attach a certified copy of your trust account balance.

INMATE IDENTIFICATION NUMBER

**FINANCIAL INFORMATION**

I am receiving financial assistance from one or more of the following programs

Supplemental Security Income (SSI) and State Supplemental Payments (SSP)California Work Opportunity and Responsibility to Kids (CalWORKS)CalFresh/SNAP (formerly Food Stamps)General Relief (GR) or General Assistance (GA)

Number of household members and monthly household income are within one of the categories below.

Number of Household Members	Maximum Monthly Household Income
1	\$1,012
2	\$1,372
3	\$1,732
4	\$2,092
5	\$2,452
6	\$2,812

For each additional household member beyond 6, add \$360 to the maximum monthly household income

**CLAIMANT CERTIFICATION**

*I request a waiver of the \$25 fee to file a government claim. I declare under penalty of perjury, per Penal Code Section 72, that the information provided on this application is true and correct.*

SIGNATURE	DATE
-----------	------

Department of General Services  
Office of Risk and Insurance Management  
Government Claims Program  
PO Box 989052, MS 414  
West Sacramento, CA 95798-9052

1-800-955-0045 - [www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx](http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx)



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.)

**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](http://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 17*). 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 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.
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](http://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*):

**SC-100****Plaintiff's Claim and ORDER to Go to Small Claims Court**

Clerk stamps date here when form is filed.

**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.)

<b>Trial Date</b>	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](http://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. (Code Civ. Proc., § 395(b).)  
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). (Civ Code, § 1812.10.)  
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. (Civ Code, § 2984.4.)  
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  
Date: \_\_\_\_\_ Second plaintiff types or prints name here  
Plaintiff signs 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](http://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 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.

**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](http://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](http://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.

- **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](http://www.courts.ca.gov/smallclaims/advisor).

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



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](http://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?** Pregúntele al secretario de la corte lo más pronto posible si en el juzgado habrá un intérprete disponible y cómo solicitarlo. No siempre están disponibles los intérpretes de la corte. Otra opción es llevar a un adulto que pueda interpretar para usted siempre que esa persona no sea un testigo ni un abogado. O puede pedir a la corte una lista de intérpretes particulares disponibles para contratar.

**¿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](http://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](http://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](http://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).)

**SC-100A****Other Plaintiffs or Defendants**

Case Number: \_\_\_\_\_

 This form is attached to form SC-100, item 1 or 2.**1 If more than two plaintiffs (person, business, or entity suing), list their information below:**

Other plaintiff's name: \_\_\_\_\_

Street address: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing address (if different): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Is this plaintiff doing business under a fictitious name?  Yes  No If yes, attach form SC-103.

Other plaintiff's name: \_\_\_\_\_

Street address: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing address (if different): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Is this plaintiff doing business under a fictitious name?  Yes  No If yes, attach form SC-103. Check here if more than 4 plaintiffs and fill out and attach another form SC-100A.**2 If more than one defendant (person, business, or entity being sued), list their information below:**

Other defendant's name: \_\_\_\_\_

Street address: \_\_\_\_\_ Phone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing address (if different): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

If this defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process:

Name: \_\_\_\_\_ Job title, if known: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

 Check here if your case is against more than two defendants, and fill out and attach another form SC-100A.**3 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.

**4 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: \_\_\_\_\_

Type or print your name \_\_\_\_\_

Sign your name \_\_\_\_\_

Date: \_\_\_\_\_

Type or print your name \_\_\_\_\_

Sign your name \_\_\_\_\_



ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>    TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
<b>DECLARATION</b>	CASE NUMBER: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_ (TYPE OR PRINT NAME)

\_\_\_\_\_ (SIGNATURE OF DECLARANT)

- Attorney for   
  Plaintiff   
  Petitioner   
  Defendant  
 Respondent   
  Other *(Specify):* \_\_\_\_\_

**SC-104A Proof of Mailing (Substituted Service)**

Case Number: \_\_\_\_\_

This form is attached to Form SC-104. Use this form ONLY if you mailed the documents in ① and someone else personally gave them to the person, business, or public entity served.

**Notice to Server**

You must:

- Be at least 18 and **not listed in this lawsuit.**
- Fill out ①–⑥ of this form and attach it to Form SC-104.

**① Documents served by mail:**

- a.  SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*
- b.  SC-120, *Defendant's Claim and ORDER to Go to Small Claims Court*
- c.  Other (*specify*): \_\_\_\_\_

**② Name and address of the person, business, or public entity served:**

a. If you served a **person**, write the person's name and address below:  
Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

b. If you served a **business or public entity**, write the name and address of the business or public entity, the person authorized for service, and that person's job title:

Business or Public Entity Name	Person Authorized for Service	Job Title
Address: _____		
<small>Street</small>	<small>City</small>	<small>State Zip</small>

**③** I put copies of the documents listed in ① above in an envelope, sealed the envelope, and put first-class prepaid postage on it. I addressed the envelope to the person, business, or public entity listed in ② and mailed the envelope by leaving it at (*check one*):

- a.  A U.S. Postal Service mail drop *or*
- b.  An office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

**④** I mailed the envelope:

a. On (*date*): \_\_\_\_\_ b. From (*city, state*): \_\_\_\_\_

**⑤** My address is: \_\_\_\_\_

**⑥** I declare, under penalty of perjury under California State law, that the information above is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print server's name*



\_\_\_\_\_  
*Server signs here after mailing*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		<b>FOR COURT USE ONLY</b>
TELEPHONE NO.:	FAX NO.:	
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
CASE NAME:		
<input type="checkbox"/> <b>CIVIL CASE COVER SHEET</b> <input type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER:
		JUDGE:
		DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |                                                                                                                                |                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties                                                     | d. <input type="checkbox"/> Large number of witnesses                                                                                                      |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence                                                         | f. <input type="checkbox"/> Substantial postjudgment judicial supervision                                                                                  |
3. Remedies sought (check all that apply): a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive
4. Number of causes of action (specify):
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)–Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice–  
Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach–Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case–Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ–Administrative Mandamus  
Writ–Mandamus on Limited Court Case Matter  
Writ–Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal–Labor  
Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  TELEPHONE NO: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF:  DEFENDANT:  <input type="checkbox"/> DOES 1 TO _____	
<b>COMPLAINT—Personal Injury, Property Damage, Wrongful Death</b> <input type="checkbox"/> <b>AMENDED <i>(Number)</i>:</b> <b>Type <i>(check all that apply)</i>:</b> <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER <i>(specify)</i> : <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages <i>(specify)</i> :	
<b>Jurisdiction <i>(check all that apply)</i>:</b> <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	CASE NUMBER:

1. Plaintiff *(name or names)*:  
alleges causes of action against defendant *(name or names)*:
  
2. This pleading, including attachments and exhibits, consists of the following number of pages:
  
3. Each plaintiff named above is a competent adult
  - a.  except plaintiff *(name)*:
    - (1)  a corporation qualified to do business in California
    - (2)  an unincorporated entity *(describe)*:
    - (3)  a public entity *(describe)*:
    - (4)  a minor     an adult
      - (a)  for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
      - (b)  other *(specify)*:
    - (5)  other *(specify)*:
  
  - b.  except plaintiff *(name)*:
    - (1)  a corporation qualified to do business in California
    - (2)  an unincorporated entity *(describe)*:
    - (3)  a public entity *(describe)*:
    - (4)  a minor     an adult
      - (a)  for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
      - (b)  other *(specify)*:
    - (5)  other *(specify)*:

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:	CASE NUMBER:
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4.  Plaintiff (*name*):  
 is doing business under the fictitious name (*specify*):  
  
 and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- |                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>a. <input type="checkbox"/> <b>except</b> defendant (<i>name</i>):</p> <p>(1) <input type="checkbox"/> a business organization, form unknown</p> <p>(2) <input type="checkbox"/> a corporation</p> <p>(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):</p> <p>(4) <input type="checkbox"/> a public entity (<i>describe</i>):</p> <p>(5) <input type="checkbox"/> other (<i>specify</i>):</p> | <p>c. <input type="checkbox"/> <b>except</b> defendant (<i>name</i>):</p> <p>(1) <input type="checkbox"/> a business organization, form unknown</p> <p>(2) <input type="checkbox"/> a corporation</p> <p>(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):</p> <p>(4) <input type="checkbox"/> a public entity (<i>describe</i>):</p> <p>(5) <input type="checkbox"/> other (<i>specify</i>):</p> |
| <p>b. <input type="checkbox"/> <b>except</b> defendant (<i>name</i>):</p> <p>(1) <input type="checkbox"/> a business organization, form unknown</p> <p>(2) <input type="checkbox"/> a corporation</p> <p>(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):</p> <p>(4) <input type="checkbox"/> a public entity (<i>describe</i>):</p> <p>(5) <input type="checkbox"/> other (<i>specify</i>):</p> | <p>d. <input type="checkbox"/> <b>except</b> defendant (<i>name</i>):</p> <p>(1) <input type="checkbox"/> a business organization, form unknown</p> <p>(2) <input type="checkbox"/> a corporation</p> <p>(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):</p> <p>(4) <input type="checkbox"/> a public entity (<i>describe</i>):</p> <p>(5) <input type="checkbox"/> other (<i>specify</i>):</p> |
- Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a.  Doe defendants (*specify Doe numbers*): \_\_\_\_\_ were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b.  Doe defendants (*specify Doe numbers*): \_\_\_\_\_ are persons whose capacities are unknown to plaintiff.
7.  Defendants who are joined under Code of Civil Procedure section 382 are (*names*):
8. This court is the proper court because
- a.  at least one defendant now resides in its jurisdictional area.
- b.  the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c.  injury to person or damage to personal property occurred in its jurisdictional area.
- d.  other (*specify*):
9.  Plaintiff is required to comply with a claims statute, **and**
- a.  has complied with applicable claims statutes, **or**
- b.  is excused from complying because (*specify*):

SHORT TITLE:	CASE NUMBER:
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10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):
- a.  Motor Vehicle
  - b.  General Negligence
  - c.  Intentional Tort
  - d.  Products Liability
  - e.  Premises Liability
  - f.  Other (*specify*):

11. Plaintiff has suffered
- a.  wage loss
  - b.  loss of use of property
  - c.  hospital and medical expenses
  - d.  general damage
  - e.  property damage
  - f.  loss of earning capacity
  - g.  other damage (*specify*):

12.  The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a.  listed in Attachment 12.
  - b.  as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1)  compensatory damages
- (2)  punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1)  according to proof
- (2)  in the amount of: \$

15.  The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date:

\_\_\_\_\_  \_\_\_\_\_  
(TYPE OR PRINT NAME) (SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:	CASE NUMBER:
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**CAUSE OF ACTION—Motor Vehicle**

\_\_\_\_\_ (number)  
 ATTACHMENT TO  Complaint  Cross - Complaint

*(Use a separate cause of action form for each cause of action.)*

Plaintiff (name):

MV- 1. Plaintiff alleges the acts of defendants were negligent; the acts were the legal (proximate) cause of injuries and damages to plaintiff; the acts occurred on (date):  
 at (place):

**MV- 2. DEFENDANTS**

- a.  The defendants who operated a motor vehicle are (names):  
  
 Does \_\_\_\_\_ to \_\_\_\_\_
- b.  The defendants who employed the persons who operated a motor vehicle in the course of their employment are (names):  
  
 Does \_\_\_\_\_ to \_\_\_\_\_
- c.  The defendants who owned the motor vehicle which was operated with their permission are (names):  
  
 Does \_\_\_\_\_ to \_\_\_\_\_
- d.  The defendants who entrusted the motor vehicle are (names):  
  
 Does \_\_\_\_\_ to \_\_\_\_\_
- e.  The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):  
  
 Does \_\_\_\_\_ to \_\_\_\_\_
- f.  The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are  
 listed in Attachment MV-2f  as follows:

Does \_\_\_\_\_ to \_\_\_\_\_

Page \_\_\_\_\_



SHORT TITLE:	CASE NUMBER:
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**CAUSE OF ACTION—General Negligence**

Page \_\_\_\_\_

\_\_\_\_\_ (number)

ATTACHMENT TO  Complaint  Cross - Complaint

*(Use a separate cause of action form for each cause of action.)*

GN-1. Plaintiff *(name)*:

alleges that defendant *(name)*:

Does \_\_\_\_\_ to \_\_\_\_\_

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on *(date)*:

at *(place)*:

*(description of reasons for liability)*:

SHORT TITLE:	CASE NUMBER
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\_\_\_\_\_ **CAUSE OF ACTION—Intentional Tort** Page \_\_\_\_\_  
 (number)

ATTACHMENT TO  Complaint  Cross - Complaint

*(Use a separate cause of action form for each cause of action.)*

IT-1. Plaintiff *(name)*:

alleges that defendant *(name)*:

Does \_\_\_\_\_ to \_\_\_\_\_

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on *(date)*:

at *(place)*:

*(description of reasons for liability):*

SHORT TITLE:	CASE NUMBER:
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**CAUSE OF ACTION—Premises Liability** Page \_\_\_\_\_

\_\_\_\_\_ (number)

ATTACHMENT TO  Complaint  Cross - Complaint  
*(Use a separate cause of action form for each cause of action.)*

Prem.L-1. Plaintiff (*name*):  
 alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.  
 On (*date*): \_\_\_\_\_ plaintiff was injured on the following premises in the following  
 fashion (*description of premises and circumstances of injury*):

Prem.L-2.  **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (*names*):

Does \_\_\_\_\_ to \_\_\_\_\_

Prem.L-3.  **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (*names*):

Does \_\_\_\_\_ to \_\_\_\_\_

Plaintiff, a recreational user, was  an invited guest  a paying guest.

Prem.L-4.  **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (*names*):

Does \_\_\_\_\_ to \_\_\_\_\_

a.  The defendant public entity had  actual  constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.

b.  The condition was created by employees of the defendant public entity.

Prem.L-5. a.  **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (*names*):

Does \_\_\_\_\_ to \_\_\_\_\_

b.  The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are  described in attachment Prem.L-5.b  as follows (*names*):

SHORT TITLE:	CASE NUMBER:
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### Exemplary Damages Attachment

Page \_\_\_\_\_

ATTACHMENT TO  Complaint  Cross - Complaint

EX-1. As additional damages against defendant (*name*):

Plaintiff alleges defendant was guilty of

- malice
- fraud
- oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

EX-3. The amount of exemplary damages sought is

- a.  not shown, pursuant to Code of Civil Procedure section 425.10.
- b.  \$

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):    TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<b>PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</b>	CASE NUMBER: _____

**(Do not use this Proof of Service to show service of a Summons and Complaint.)**

1. I am over 18 years of age and **not a party to this action**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
3. On (*date*): \_\_\_\_\_ I mailed from (*city and state*): \_\_\_\_\_  
the following **documents** (*specify*):

The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and (*check one*):
  - a.  **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - b.  **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
  - a. **Name** of person served:
  - b. **Address** of person served:

The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____	
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)	(SIGNATURE OF PERSON COMPLETING THIS FORM)

## INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL

*(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)*

**NOTE:** This form should **not** be used for proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Use these instructions to complete the *Proof of Service by First-Class Mail—Civil* (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents:

(1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service—Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

### INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

*Complete the top section of the proof of service form as follows:*

**First box, left side:** In this box print the name, address, and telephone number of the person for whom you served the documents.

**Second box, left side:** Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

**Third box, left side:** Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

**First box, top of form, right side:** Leave this box blank for the court's use.

**Second box, right side:** Print the case number in this box. The case number should be the same as the case number on the documents that you served.

*Complete items 1–5 as follows:*

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
4. For item 4:  
Check box a if you personally put the documents in the regular U.S. mail.  
Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (form POS-030(P)), and attach it to form POS-030.

**At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.**



CASE NAME:	CASE NUMBER:
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6. b.  **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (*specify one*):
- (1)  deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
  - (2)  placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):
- c.  **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d.  **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (*A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.*)
- e.  **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_ \_\_\_\_\_  
(TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

*(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)*

**DECLARATION OF MESSENGER**

- By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (*date*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_ \_\_\_\_\_  
(NAME OF DECLARANT) (SIGNATURE OF DECLARANT)



## INFORMATION SHEET FOR PROOF OF SERVICE—CIVIL

*(This information sheet is not part of the official proof of service form and does not need to be copied, served, or filed.)*

### USE OF THIS FORM

This form is designed to be used to show proof of service of documents by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, or (5) fax.

This proof of service form should **not** be used to show proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Also, this proof of service form should **not** be used to show proof of electronic service. For that purpose, use *Proof of Electronic Service* (form POS-050).

Certain documents must be personally served. For example, an order to show cause and temporary restraining order generally must be served by personal delivery. You must determine whether a document must be personally delivered or can be served by mail or another method.

### GENERAL INSTRUCTIONS

A person must be over 18 years of age to serve the documents. The person who served the documents must complete the Proof of Service. **A party to the action cannot serve the documents.**

The Proof of Service should be typed or printed. If you have Internet access, a fillable version of this proof of service form is available at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

*Complete the top section of the proof of service form as follows:*

**First box, left side:** In this box print the name, address, and telephone number of the person for whom you served the documents.

**Second box, left side:** Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as the address on the documents that you served.

**Third box, left side:** Print the names of the plaintiff/petitioner and defendant/respondent in this box. Use the same names as are on the documents that you served.

**Fourth box, left side:** Check the method of service that was used. You should check only one method of service and should show proof of only one method on the form. If you served a party by several methods, use a separate form to show each method of service.

**First box, top of form, right side:** Leave this box blank for the court's use.

**Second box, right side:** Print the case number in this box. The case number should be the same as the case number on the documents that you served.

**Third box, right side:** State the judge and department assigned to the case, if known.

*Complete items 1–6:*

1. You are stating that you are over the age of 18.
2. Print your home or business address.
3. If service was by fax service, print the fax number from which service was made.
4. List each document that you served. If you need more space, check the box in item 4, complete the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)), and attach it to form POS-040.
5. Provide the names, addresses, and other applicable information about the persons served. If more than one person was served, check the box on item 5, complete the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)), and attach it to form POS-040.
6. Check the box before the method of service that was used, and provide any additional information that is required. The law may require that documents be served in a particular manner (such as by personal delivery) for certain purposes. Service by fax generally requires the prior agreement of the parties.

**You must sign and date the proof of service form. By signing, you are stating under penalty of perjury that the information that you have provided on form POS-040 is true and correct.**