

# LA LAW LIBRARY

# PRO BONO WEEK 2022

*Small Claims:  
Where You Begin*

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# LA Law Library Locations

## **Main Library:**

(Corner of 1st & Hill)  
301 W. First Street  
Los Angeles, CA 90012  
(213) 785-2529

Mon through Fri: 8:30–6:00pm  
Sat: 9:00–5:00 pm



## **Courthouse Branch Locations:**

Long Beach, Torrance

## **Courthouse eBranch Locations:**

Long Beach, Norwalk, Pomona, Torrance,

## **Public Library Partnerships:**

Compton, Lancaster, Pasadena, Santa Monica  
Van Nuys (Interim North Hollywood), West Covina



LALAWLIBRARY

# www.lalawlibrary.org

The screenshot shows the homepage of the LALAWLIBRARY website. At the top, there is a dark header with the LALAWLIBRARY logo on the left, a "LOG IN" button on the right, and a search bar. Below the header is a navigation menu with links: HOME, SELF HELP, SERVICES & RENTALS, LEGAL RESEARCH, CLASSES & EVENTS, ABOUT US, CONTACT US, and SEARCH. The main content area features a large banner for "CHECK OUT CLASSES" with a photo of three people at a table. To the left of the banner is a sidebar with links: About the LA Law Library, Check out Classes, Frequently Asked Questions, Find Court Forms, Find Your Court, Get Legal Help, and Speak with a Librarian. Below the banner are three columns: "SEARCH OUR CATALOG" with a search box and "QUICK SEARCH" button; "BRIEFS" with text about California appellate briefs and a small image of a bookshelf; and "NEWS / EVENTS" with two articles about MCLE Cram Day. The footer of the website is a dark blue bar with the LALAWLIBRARY logo and the URL www.lalawlibrary.org.

**LALAWLIBRARY**

LOG IN

How Do I...?

Search this website...

HOME | SELF HELP | SERVICES & RENTALS | LEGAL RESEARCH | CLASSES & EVENTS | ABOUT US | CONTACT US | SEARCH

**REPRESENTING YOURSELF** \* STUDENT RESOURCES \* LEGAL PROFESSIONALS

About the LA Law Library

Check out Classes

Frequently Asked Questions

Find Court Forms

Find Your Court

Get Legal Help

Speak with a Librarian

**CHECK OUT CLASSES**  
A VARIETY OF CLASSES AIMED EDUCATING FOR THE PUBLIC, PARALEGAL AND LEGAL COMMUNITY. [READ MORE](#)

**SEARCH OUR CATALOG**

Searching for something specific? Enter the information below to go to our online catalog

[QUICK SEARCH](#)

Or search our catalog with

**BRIEFS**

Our collection of California appellate briefs is the most complete in the State comprising over three miles of shelf space. The LA Law Library is digitizing this collection for online public access.

To read more or begin searching please

**NEWS / EVENTS**

MCLE Cram Day - 6 Participatory Credits in One Day  
MCLE Cram Day 6 PARTICIPATORY CREDITS IN ONE DAY elimination of bias \* ethics \*... [Read more](#)

MCLE Cram Day - Video, "Hot Topics in Legal Ethics"  
Wednesday, January 29, 2014 9:00 a.m. — 12:00 p.m. Do you need last minute participatory MCLE credits?... [Read more](#)

MCLE Cram Day - Video, "Confidentiality,"

# Overview

- The LA Law Library was established in 1891
- The current building was opened in 1953
- Largest print collection in a public law library west of the Mississippi River
- Seven floors
- 35 miles of shelving
- 1,000,000 equivalent volumes including print and digital



# Print Collection

- Primary and secondary legal materials for all 50 states, federal and multi-state Foreign and International materials
- Extensive historical collection including early California and state colonial materials
- California and Ninth Circuit Appellate and Supreme Court briefs



# Electronic Databases

- California State Briefs
- CEB OnLAW
- Foreign Law Guide
- HeinOnline
- Index to Foreign Legal Periodicals
- LA Law Library Catalog
- LLMC Digital
- Legal Information Reference Center
- Legal Trac
- Lexis Advance
- SmartRules
- U.S. Supreme Court Records and Briefs, 1832-1978
- Westlaw
- Wolters Kluwer Cheetah
- Xspouse



# What We Do

- Suggest research avenues and sources for research,
- Assist in identifying and locating citations
- Explain how to use legal materials
- Explain the law-making process
- Assist in finding forms and templates
- Aid in the use of electronic resources including Westlaw and Lexis (online databases that contain cases, codes, and statutes for all 50 states and secondary materials), CEB OnLAW and HeinOnline
- Teach public classes





# Library Services

- Reference Service
  - in library, by phone, email, mail and live chat through 24/7 Reference Cooperative
- Document Delivery Service
- Members Program
  - Open to members of the State Bar of California
- Computer Services
- Circulation
  - Borrower registration program
  - Reserve books and more...
- Facility Rentals
  - Training Center
  - Conference Rooms
  - Office Space
  - Private Events (up to 500 ppl)
- Instruction
  - Public training classes
  - MCLE courses
  - Tours





# Class Overview

- Overview of small claims court and procedures in California
- Small claims print and online resources
- Where to get help with small claims cases
- New laws regarding collecting back rent in small claims court
- New procedures for online dispute resolution in LA Superior Court



# Small Claims Overview

## Benefits:

- Quicker resolution
- Lower fees
- Simplified procedures
- No lawyers in court
- No jury, only judge hears the case

## Drawbacks:

- Limited claims \$10,000 and below
- No jury, only judge hears the case
- No option for plaintiff to appeal
- Parties can consult attorneys out of court
- Case hearing is short
- Limited by number of cases individuals can file
- Businesses can only sue for \$5,000.00



# Is Small Claims for You?

Things to keep in mind...

- Waiving the excess
  - You waive your right to any amount higher than \$10,000
- No appeals for plaintiff
  - But if the plaintiff prevails, the defendant has right to appeal
- Case is heard by only a judge
  - Would a jury be more sympathetic to your case?
- Can you collect?
  - Does the defendant have sufficient funds to pay if you win?
- Any possibility of settling out of court?



# Small Claims Introduction



Small Claims in California is meant to be simplified

- Process is entirely form-based, all forms are available on the web at [www.courts.ca.gov](http://www.courts.ca.gov)
- Restriction on using attorneys should result in faster, less rigid process



# Small Claims Introduction



## CHANGES IN SMALL CLAIMS DUE TO AB 3088 (codified at CCP §116.223)

- New law effective August 31, 2020
- **All** back rent can be collected through small claims actions
- Claims for back rent are NOT subject to small claims jurisdictional limit (\$10,000)
- Along with certain protections for tenants, landlords were restricted from filing evictions for not paying rent; this protection ended in July of 2022.

## IMPORTANT DISTINCTION

- This type of small claims action will NOT result in eviction
- Small claims judgment will only entitle landlord to back rent
- Landlord has options to collection judgment, as addressed in this class.
- COVID-19 eviction protections were specifically for failure to pay rent, HOWEVER, there are other reasons a landlord can evict; for additional information, please see our landlord-tenant related programs and classes.



# Deciding to file in Small Claims

Starting your case:

- Are you within the statute of limitations?
  - See a list of statutes of limitations for most common causes of action at the following link:  
<https://www.courts.ca.gov/9618.htm?rdeLocalAttr=en>
- Name of defendant: Is it a person, a business or organization?
- Figuring out where to sue; filing in the wrong court could result in dismissal
- How much to sue for?
  - You can sue for up to \$10,000 (CCP §116.221)
  - limited to two cases of more than \$2,500 per calendar year (CCP §116.231(a))



# Beginning in Small Claims

Fill out your forms:

- Small Claims (SC) forms are available online and at Courthouses
- “*Plaintiff's Claim and ORDER to Go to Small Claims Court*” (SC-100) form is MANDATORY for initiating California Small Claims cases; for instructions, see SC-100-INFO form (CCP 116.320)

Telephone Number \_\_\_\_\_

From Plaintiff  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

To Defendant  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

Superior Court of California  
Law Division, Special Civil Part  
Small Claims Section  
County \_\_\_\_\_  
Docket No: \_\_\_\_\_  
(to be provided by the court)

Civil Action  
Complaint  
Motor Vehicle

**COMPLAINT**

Plaintiff says the negligence of the defendant operator and/or defendant owner caused a motor vehicle accident resulting in property damage to plaintiff's vehicle, in the following accident:

1. Date of Accident: \_\_\_\_\_  
2. Name of Defendant(s)  
a) Owner: \_\_\_\_\_  
b) Operator: \_\_\_\_\_  
Demand: \$ \_\_\_\_\_

3. Place of Accident:  
a) Street: \_\_\_\_\_  
b) Municipality: \_\_\_\_\_  
c) County: \_\_\_\_\_

**IMPORTANT:** Plaintiff and defendants must bring all witnesses, photos, and documents, and other evidence to the hearing. Subpoena forms are available at the Clerk's office to require the attendance of witnesses.

At the trial Plaintiff will require:  
An interpreter ☐ Yes ☐ No  
An accommodation for disability ☐ Yes ☐ No

Indicate Language \_\_\_\_\_  
Indicate Disability \_\_\_\_\_

I certify that the matter in controversy is not the subject of any other court action or arbitration proceeding, now pending or contemplated, and that no other parties should be joined in this action.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1.38-7(b).

How to File Small Claims in New Jersey



# Small Claims - Special Rules in LA

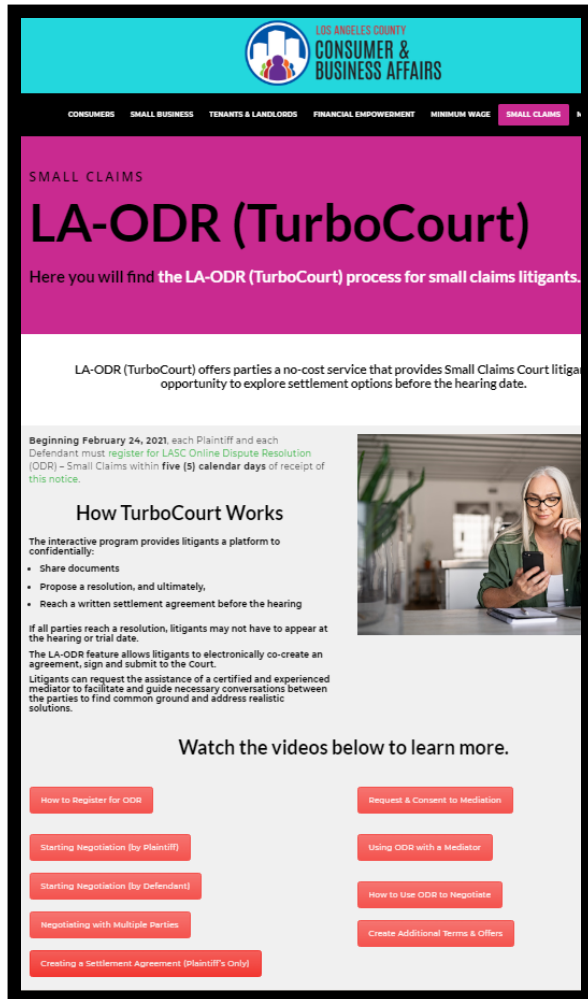


## Starting in 2021, per LA Superior Court standing order 2020-SJ-019-00:

- LA Superior Court now *requires* all parties involved in small claims cases to register for a free online dispute resolution program
  - Plaintiff must register for Online Dispute Resolution (ODR) within 5 days of filing
  - Defendant must register within 5 days of receiving “NOTICE OF ONLINE DISPUTE RESOLUTION”
- The Los Angeles Superior Court online dispute resolution system is offered through “TurboCourt” and provides a way for small claims plaintiffs to negotiate a settlement prior to their Court hearing.



# Small Claims - Special Rules in LA



## Starting in 2021:

- Parties can use the ODR portal to upload documents, IM chat with the other party, and propose possible settlement amounts.
- Parties have until two days before their Small Claims Court hearing to negotiate a settlement.
- If both sides accept the settlement amount, the plaintiff creates the settlement agreement to submit to court for a Judge's approval.
- Settlement agreement becomes part of public Court records for the case.



# Filing Your Small Claims Case

## Filing Completed Claim Form:

- Bring copies of forms to court clerk.
  - Many courts have e filing options. Be sure to review e filing requirements to make sure you correctly and timely e file your claim
    - No longer available for LA Superior Court
      - <https://ww2.lacourt.org/efiling/EfilingNotice.aspx>
- Pay the Small Claims filing fee
  - Fee amount ranges from \$30 - \$100 depending on the amount of the claim, and number of filing in previous year (CCP §116.230)
  - Fee waiver is available if you are unable to afford fees (CCP §116.320)



# Filing Your Small Claims Case

## Filing Completed Claim Form:

- Clerk will stamp and keep original form, return copies, and give you a court date. (CCP §116.320(a))
  - If you need an interpreter, ask the small claims clerk
    - For LA Superior Court, you can make an appointment to see the Clerk in person, or you can call the Call Center phone numbers at this link:
      - » <https://www.lacourt.org/newsmedia/ui/pdf/CALLCENTERPHONENUMBERSfinal.pdf>



# Filing Your Small Claims Case

Things to double check:

- Are you using the correct name of the person or business you are suing?
  - You can check public records such as court filings, real estate records, or licensing records to verify identify for individuals.
  - For businesses, check with the Secretary of State, the LA County Clerk for any registered DBA, or the LA City Finance Department for business licenses.



# Filing Your Small Claims Case

Things to double check:

- Are you suing in the right court?
  - Failure to file in the correct court, called the “venue,” can result in dismissal of your case. (CCP § 116.370 (c))
- Review jurisdictional issues in practice guides
- Check the LA Superior Court website filing locator tool at:  
<http://www.lacourt.org/filinglocatornet/ui/filingsearch.aspx>

### Filing Court Locator

The name of the courthouse shown in the results of your search below will normally be the location where a case from the selected zip code and community would be assigned, unless Local Rule 2.0 specifies a different location for filing and/or hearing your type of case.

**NOTES**

When the results of your search specify that a filing location is to the North, South, East or West of a named street, the boundary of the district is the centerline of that street.

**SEARCH RESULTS**

City / Community (Zip Code)	Unlimited Civil (exclude Personal Injury)	Unlimited Civil (Personal Injury)	Family Law	Restraining Orders	Probate	Limited Civil (exclude Collection)	Limited Civil (Collection)	Limited Unlawful Detainer	Small Claims
GLENDALE (91202)	Glendale Courthouse	Stanley Mosk Courthouse	Pasadena Courthouse	Pasadena Courthouse		Stanley Mosk Courthouse	Chatsworth Courthouse	Pasadena Courthouse	Pasadena Courthouse

# Serving Your Small Claims Case

Law requires defendants be notified they are being sued (due process):

- For proper service, the claim form (SC-100) and any required additional papers should be delivered to all the named defendants (CCP §116.340)
- Very specific rules and requirements for properly serving defendant in small claims. (CCP §§415.10-416.3)
  - More on this...





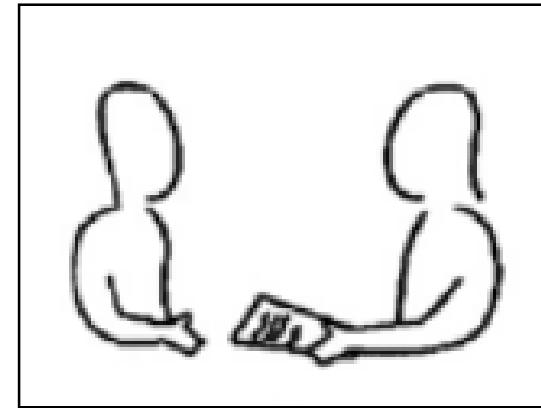
# Serving Your Small Claims Case

- Must file “proof” with the Court that service has been completed properly.
  - Form SC-104 Proof of Service form
  - Must be filed with the Court 5 days prior to hearing date (CCP § 116.340(c))
- Service can be completed by anyone 18 years or older, and who is not a party in the case. (CCP § 414.10)
- Same rules also apply for service on witnesses. More on this later...



# Methods for Service on Person

- **Personal Service:** Anyone over 18 who is not party to the case may hand Small Claims papers to defendant.
  - (CCP §§116.340(a)(1) & (2).
- **Substituted Service:** After failing to personally serve, leave small claims summons and complaint with adult at home or work of defendant and, on the same day, mail a copy to defendant by first class mail. Must be done by someone who is not a party to the case.
  - (CCP §§116.340(a)(3) & (4), CCP §415.20)



# Methods for Service on a Business

Same methods as for serving person:

- However, for personal service on a business, find out how the business is organized and registered to determine who to serve. Here are examples for different types of businesses:
  - For a sole proprietorship, serve the owner.
  - For a partnership., serve at least one partner.
  - For a limited partnership, serve the partner who runs the business or the agent for service of process.
  - For-profit or nonprofit corporations, serve an officer or the agent for service of process.
  - For a limited liability company, serve an officer or the agent for service of process
- Businesses in California must register with the California Secretary of State's office, and must provide an agent for service of process. You can search the business registration and the agent at the Secretary of State's website: [www.sos.ca.gov](http://www.sos.ca.gov)
- For a contractor or defendant who is bonded, be sure to serve the complaint on the company issuing the bond.



# Tips for Serving Your Claim

- Hiring a server:
  - Plaintiffs can hire someone, called a process server, to serve the complaint on the defendants.
  - A registered process server or even the Sheriff in some counties can serve court papers on a defendant.
- Subpoenas for witnesses can be served in the same manner as complaint papers, with the exception that service can be done by “any person” (CCP §1987(a))



# Tips for Serving Your Claim

- Defendants must be served no less than 15 days prior to hearing within the same county; 20 days prior if defendant is in a different county (CCP § 116.340 (b))
  - If you are unable to complete service within this time limit, request a new court date.
- In some cases, costs for hiring a process server can be included in a judgment if you win your case. (CCP § 1033.5)
- Courts view knowledge of a case to be proper “notice” of a pending action. (Ellard v. Conway (2001) 94 Cal. App. 4th 540, 547–548)
  - But public policy preference is for adjudication on merits, not due to technical defects. (63 Cal. 2d 849, 855)



# Defendants Options

When served with a small claims summons, a defendant should:

- Determine if service was proper:
  - Were you given the required amount of time? 15 days for cases within the same county, or 20 days case is in a different county.
    - (Keep in mind that, for purposes of vacating for lack of service (Code Civ. Proc., § 473.5) the court requires true “lack of notice” which means no knowledge of the case. Courts have ruled that people who learn of a case even without proper service have received notice of the case.)
- See if there is any option to settle the case
  - Some plaintiffs may be interested in avoiding delays and hassles of going to Court and may be interested in settling the case.



# Defendants Options

When served with a small claims summons, a defendant should:

- Verify the correct filing location;
  - If the case was filed in the wrong location, you can challenge the court's right to hear the case (CCP § 116.370 (b))
- Make sure the case filed within statute of limitation (limitation of action):
  - California Courts' website has a detailed table of time limitations:  
<http://www.courts.ca.gov/9618.htm>
- If service and venue are proper, and case was filed on time, attend court hearing and present your defense.





# Small Claims Trial Preparation

Some tips for preparing for Small Claims trials:

- Visit the Court to observe a Small Claims trial
- Organize your evidence and witnesses
- Prepare and practice your testimony; get an objective party to critique your testimony and evidence



# Small Claims Trial Preparation

Some tips for preparing for Small Claims trials:

- Research the judges who might be assigned to hear your case; each party has one opportunity to “disqualify” the judge assigned to their case (CCP § 170.6)
- Review options for interpreters should you need language services
- If you discover that you cannot make the trial date, be sure to request a postponement



# Small Claims Trial Witnesses

Organizing witnesses/testimony for your day in court:

- Locate witnesses who are either:
  - An eyewitnesses to the injury, or
  - An expert who can provide professional knowledge of shoddy work; for example, a mechanic, professional painter, or contractor



# Small Claims Trial Witnesses

Organizing witnesses/testimony for your day in court:

- Know what the witness will say before calling them to testify:
  - You don't want to be blindsided by what **your own** witness is going to say in Court
- It is illegal to coach a witness to lie (P.C. § 127)



# Small Claims Trial Witnesses

Organizing witnesses/testimony for your day in court:

- Use witness subpoena sparingly; for small claims subpoenas, use form SC-107
  - Should you need the witness to bring documents to the hearing, use page 2 of form SC-107 to specify documents
  - Proof of Service of subpoena can be found on page 3 of SC-107 form
- If your witness is unable to attend the hearing, review alternative methods of testifying; for example, writing a letter to the judge, or testifying by telephone



# Small Claims Trial

What to expect at your Small Claims trial:

- You will present your case to a judge
- The judge will be the only one to decide your case
- As you present your case, refer to the evidence you brought to support your case
  - It is a good idea to bring multiple copies of any evidence for your case; one copy for you as you present, one copy for the judge, one copy for the other party
- Be polite and respectful as you present your case



# Small Claims Trial

What to expect at your Small Claims trial:

- Each party will present their case, with the plaintiff presenting first
  - If you are the defendant, take careful notes of the plaintiff's testimony, and identify any weak points you can easily rebut with your testimony or evidence
- Defendant will then have the opportunity to present their defense
  - If you are the plaintiff, be sure to identify any of the defendant's points that you can refute with your evidence
- Because you are organized and prepared (and practiced) you will be able to present your case convincingly in the time allotted!





# Small Claims Trial

Once both sides present arguments and rebuttals, the Judge will decide the case.

- In many cases, the judgment will be mailed after the hearing; judges want to avoid altercations between the parties in the courtroom (CCP § 116.610(h))
- The Judge can decide to rule in favor of the plaintiff, the defendant, or give the plaintiff a portion of the claim



# Small Claims: Did You Win?

If the Judge granted a judgment in your favor, you (the judgment creditor) can collect from the other party (the judgment debtor).

- For multiple defendant's, the judge may determine and apportion liable amount per party. If not apportioned, any one of the parties is responsible for 100% of the judgment amount.
- Be sure to provide the debtor with an address where they can send the judgment payment.



# Small Claims: Did You Win?

- A court judgment entitles you to use various methods to collect your judgment, including:
  - Wage garnishment
  - Levying against a bank account or deposit box
  - Obtaining a lien against real or personal property
  - Have sheriff collect money from a retail business (till tap)
  - Get a seizure or turnover order from the court
- Attend Civil Lawsuit Basics class, “Enforcing Judgments”



# Small Claims: Did You Win?

- Court judgments (including small claims judgments) are valid for 10 years (CCP § 683.020)
- If left unsatisfied during the initial 10 year period, the judgment can be renewed (CCP § 683.110(a))
- If creditor is unable to ascertain assets of debtor, there are procedures such as debtor's statement and asset examination available to the creditor to discover hidden assets (CCP § 116.830)



# Small Claims: Did You Lose?

If the Judge was wrong and decides against you, you have a few options:

- For the plaintiff, there is no option of appeal, though there is an option to request correction to the judgment (using form SC-108) or vacation to the judgment (using form SC-135)
  - This option, however, is limited to clerical corrections, or erroneous legal basis for the decision



# Small Claims: Did You Lose?

Like the plaintiff, the defendant has the option to correct or vacate the judgment on the same grounds (ie, legal error or clerical corrections), but defendants **have the right to an appeal in small claims cases** (CCP § 116.710)

- Defendant must file notice of appeal within 30 days of the entry of judgment (CCP § 116.750 (b))
  - Defendant may request an appeal using the Notice of Appeal form (SC-140)



# Small Claims: Did You Lose?

- Unlike in civil cases, small claims appeal is an opportunity to re-argue the case (called a “trial de novo”) in Superior Court (CCP § 116.770)
- There is no option for appealing a small claims trial de novo decision, though plaintiff or defendant may file for an extraordinary writ if both the small claims decision and the trial de novo decision make a fundamental legal mistake; for example, jurisdictional issues such as cases over \$10,000 or hearing eviction or dissolution cases in small claims (CCP § 116.798)



# Small Claims Judgment

Once all procedural and appeal options run out, the judgment debtor is liable for the judgment amount

- The judgment is valid for 10 years, and is subject to a 10% interest rate until satisfied
- Judgment creditor may renew the judgment for additional 10 year periods
- Judgment debtor may petition to pay the judgment through the court (CCP § 116.820)





# Small Claims Judgment

- When judgment debtor pays the judgment, they should be sure to get an “Acknowledgment of Satisfaction of Judgment” (CCP §§ 116.860 & 116.870)
- If the judgment is unaffordable, request to pay the judgment in installments
  - The debtor can request to pay in installments either at the hearing, or by filing a request and a financial statement after the hearing (CCP § 116.620)
  - You can also negotiate a settlement with the creditor – but get everything in writing!



# Small Claims Review

Small claims is meant to be a low cost, informal process to resolve disputes.

- There are benefits and drawbacks to choosing small claims
  - Pros: low filing fees, relatively fast adjudication, no attorneys in court, informal process with little legal knowledge required.
  - Cons: no plaintiff option for appeal, limited to \$10,000 claims, no jury

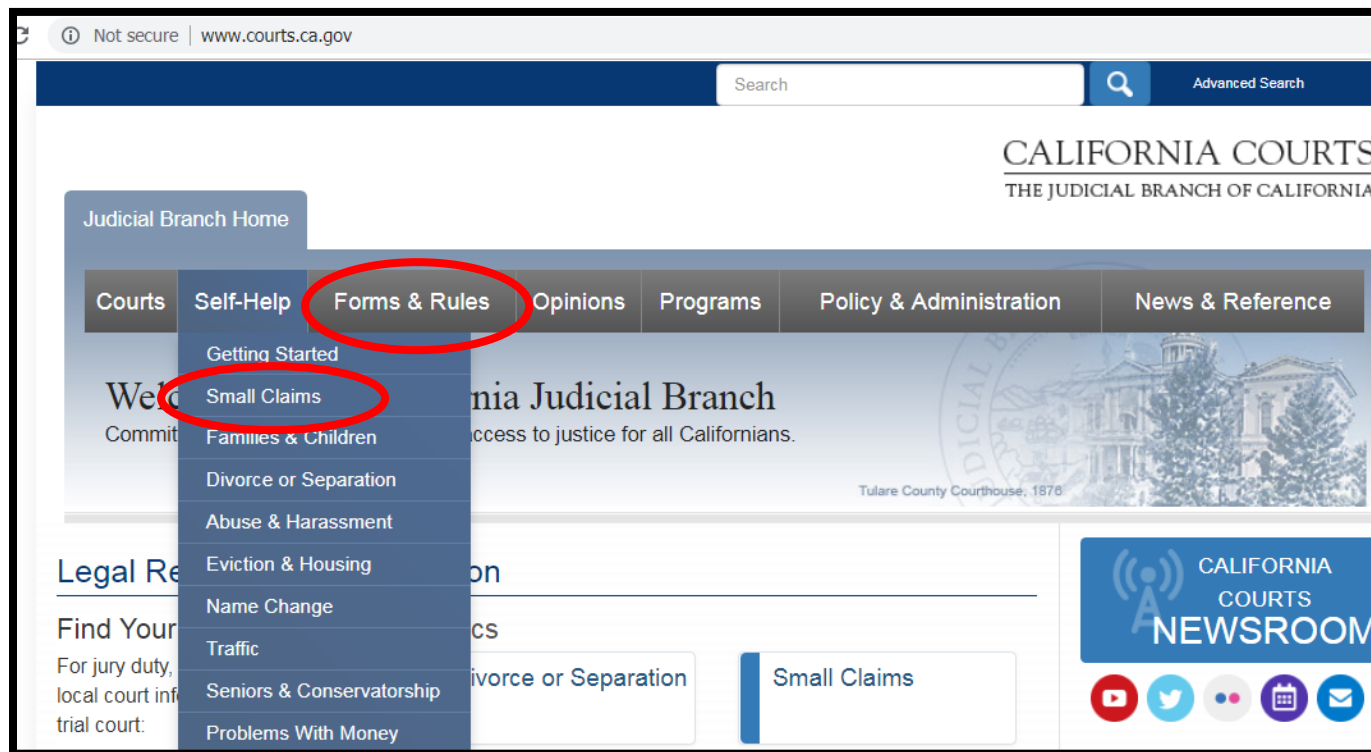


# Small Claims Review

- Be sure to adequately prepare for your hearing
  - Organize your evidence, witnesses, and testimony to effectively argue or defend your case
  - Practice your statements and review witness testimony beforehand
- Judgment creditor has various methods available to collection judgment
- Judgment debtor should be sure to get a satisfaction of judgment from the court to verify judgment was paid



# Small Claims Research



The website of the California Courts features all the small claims forms, as well as a small claims self-help section, with excellent how-to instructions

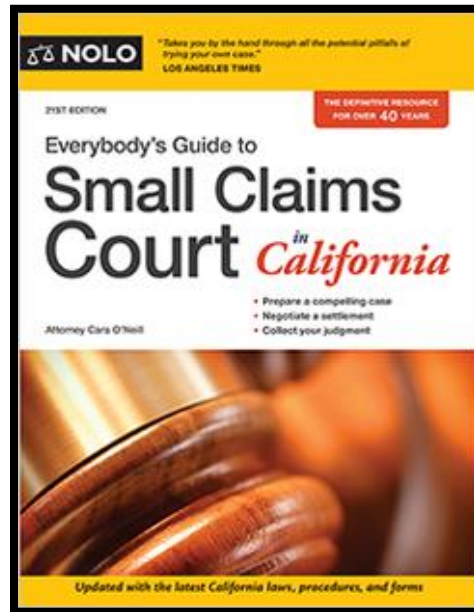
- <http://www.courts.ca.gov/>



# Small Claims Research

Nolo Press publishes *Everybody's Guide to Small Claims Court in California*.

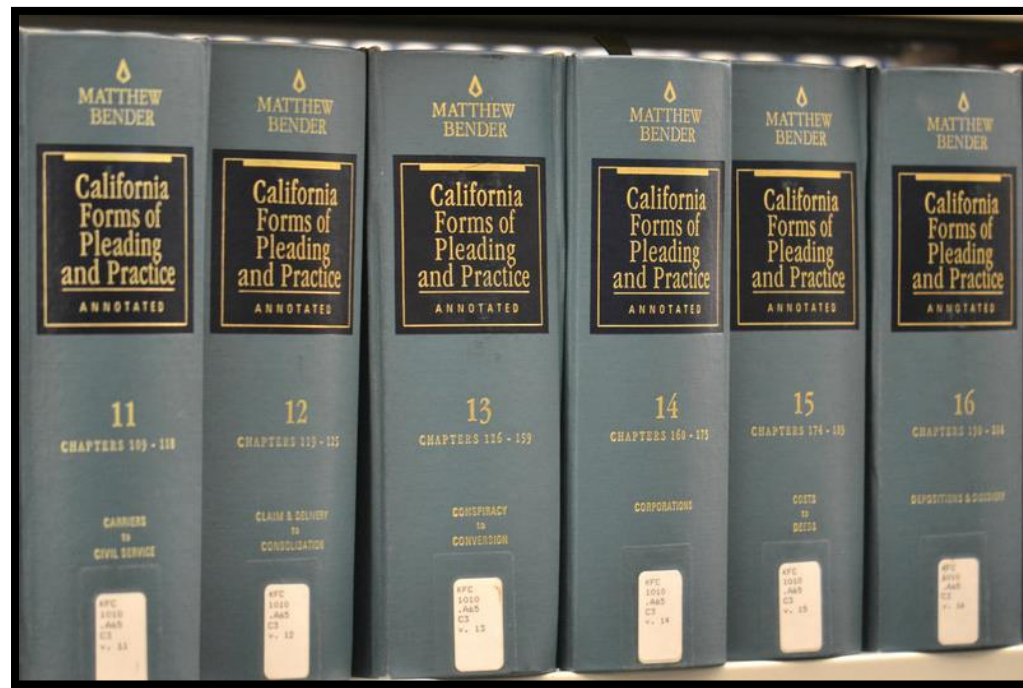
- Available in print in LA Law Library's Self Help Center
- Available online through LA Law Library's website:  
<https://www.lalawlibrary.org/pdfs/Nolo-2022.pdf>
- Features detailed instructions and examples of how to fill out small claims forms



# Small Claims Research

Nolo; California Forms of Pleading and Practice, published by Lexis, has a chapter on small claims which features procedural instructions and

- Available in print in LA Law Library's for circulation as well as in-library use
- Available online through Lexis Advance database



# Small Claims Legal Aid

## Los Angeles County ***Small Claims Advisor***

- Offered by the LA County Department of Consumer and Business Affairs
  - Website: <https://dcba.lacounty.gov/small-claims/>
  - Phone: (213) 974-9759

## LA Law Library's ***Lawyers in the Library*** service

- Offered once a month at the Main branch of LA Law Library
- For more information:
  - Website: <http://www.lalawlibrary.org/litl-2020>
  - Phone: (213) 785-2529





LALAWLIBRARY