LA Law Library Locations

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

Mon, Wed, Thu, Fri: 8:30–6:00pm
Tue: 8:30–8:00 pm
Sat: 9:00–5:00 pm

Courthouse Branch Locations:
Long Beach, Torrance

Courthouse eBranch Locations:
Long Beach, Norwalk, Pomona, Torrance,
Santa Monica (coming soon)

Public Library Partnerships:
Compton, Lancaster, Pasadena, Van Nuys

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Remote Locations

• **Courthouse Branch Locations:**
  Long Beach, Norwalk, Pomona and Torrance

• **Coming Soon:**
  Santa Monica

• **Public Library Partnerships:**
  Compton Library, Lancaster Regional Library,
  Pasadena Public Library,
  Los Angeles Public Library Van Nuys Branch

Visit [www.lalawlibrary.org](http://www.lalawlibrary.org) for more information
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

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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

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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

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What We Do

• Suggest research avenues and sources for research, identify and locate citations

• Explain how to use legal materials

• Explain the law-making process

• Assist in finding forms

• 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

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Why, When & How to Settle a Legal Dispute
Disclaimers!

LA Law Library does not provide legal advice. LA Law Library provides legal resources and assistance with legal research as an educational service. The information presented in this program is not legal advice and is provided solely as an educational service to our patrons. For legal advice, you should consult an attorney.

Also, this class is limited to general civil cases in state court.
Phases of a Civil Lawsuit

*Civil Lawsuit Basics at LA Law Library includes classes on each phase, except appeal (we have separate clinics/classes on civil appeals).

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We will cover:

• What is a “settlement?”
• Why consider settlement?
• When to consider settlement
• How to start negotiations
  – Demand Letters 101
• The mediation process
• Mandatory Settlement Conferences (MSCs)
• Online Dispute Resolution (ODR)
• End of Negotiations: To Settle or Walk Away?
• Should you hire a lawyer?
• Court-connected settlement programs, and other resources
What is a “settlement?”

• “ADR” = Alternative Dispute Resolution

• Parties **voluntarily** resolve their legal dispute based on **agreed-upon** terms. Sometimes, in court, you may hear a settlement referred to as a “**stipulation.**”

• This avoids a trial, where a judge or jury will decide (sometimes unpredictably).
What is settlement?

Main types:

• Negotiation
• Day-of-trial (last chance)
• Pre-day of trial:
  • voluntary mediation; MSCs
  • PI – special program
• ODR! Online, phone, computer
• Vendor Res List; DRPA programs; DCBA; other options
WHY should YOU consider settlement?

because lawsuits are:

• **Risky** ~ you may lose; AND even if you win, you might not be able to collect the judgment

• **Expensive** ~ the cost can exceed the amount in dispute

• **Drawn out** ~ it can take years for a case to get to trial

• **Stressful!**
WHY do COURTS encourage settlement?

• Saves time -- for court and litigants
• Saves money -- for court and litigants
• Settlement agreements can include things a judge can’t order

• Another good reason: less stress
  • Settlement negotiations take place outside the courtroom; private; informal
  • Rules of evidence, court procedures don’t apply
Does settlement make sense in your case?

- Merits of the case
- Collectability of a judgment
- Cost of litigation
- Right to recover attorneys’ fees
- Judicial vs non-judicial outcomes
  (for example, most settlements can be kept confidential by agreement)
Consider:

• Do you know the facts yet?
• How expensive will it be to ascertain them?
• Are there portions of the case that can/will be resolved prior to trial?
  • Partial settlement?
• Has something happened in the case that gives “momentum” to one side or the other?
WHEN should you consider it?

• **BEFORE** filing a lawsuit?  YES!
• **DURING** a lawsuit?  YES!
• **DAY OF** trial?  YES!
• **AFTER** trial?  YES!
  • A successful plaintiff may settle for *less* than the actual judgment *if* a defendant will pay voluntarily ~ the plaintiff saves time, money and risk of going through the collections process.
How to prepare for settlement process

• Legal research:
  • elements of the case
  • right to jury
  • remedies available

• Factual research: strengths and weaknesses
• What do you want?
• What does the other side want?
• Try arguing the other side of the case
How to negotiate effectively

• Be prepared
  • To present your case
  • To address the weaknesses in your case
• Use of inflammatory language
• Body language and demeanor
• Understanding your opponent
• In person or by written exchange
How to start negotiations

Before or after filing a lawsuit:

Demand Letters → Telephone Negotiations → In-Person Mediation
Demand Letters 101

• You don’t need a lawyer

• The Law Library has some resources to help you draft a demand letter

  • *Collection, Demand, and Commercial Letters for the General Practitioner* by David J. Cook (Main KF1024 .C65 2015)
  • Ask at the Reference desk
Demand Letters – Format

1. Brief intro

2. State your intent to sue unless they respond favorably by your deadline

3. Explain your claim (briefly!)
   - Research your cause(s) of action at the law library first. What are elements you have to prove?
4. State your damages (clearly!)

5. Consider attaching copies of your evidence: receipts, photos, etc.

6. Conclusion: offer not to sue if they meet your demand by your deadline
What if... You get no response?

**OPTIONS:**
- follow-up with a letter, email or phone
- consult a lawyer
- file a lawsuit (*before* your statute of limitations expires!)
- drop it altogether
- pursue other remedies (e.g., govt. penalties, media, Yelp reviews, etc.)
Tempted to “go public?”

• When you’re wronged, it’s natural to want to speak or write publicly about it

• Just remember…. “confidentiality” can be a valuable bargaining chip! So think twice before giving it up.

• Also, it may provoke the other side into fighting harder against you vs. settling
What if . . . they respond but offer LESS than you want? ("Counter-offer")

• Options:
  • Accept their counter-offer;
  • Decline and file your lawsuit (or pursue other remedies); or
  • Make a counter-offer of your own
About Counter-Offers

Counter-offers signal the other side is willing to negotiate.

If you want to negotiate, reduce your first demand & give them a counter-demand.

Be patient and stay calm ~ expect a few rounds of back-and-forth.
Mediation

• A “mediation” is a process where parties try to resolve their legal dispute outside the courtroom.

• The parties are guided by a third-party “neutral” (a mediator)

• The mediator does not represent one side or the other
The role of a settlement officer or mediator
Mediation

A mediator talks to both sides (sometimes separately), tries to find common ground and encourages a voluntary settlement.
Mediation

Mediators range from free to very costly

Mediations may last anywhere from 10 minutes to several hours or more

The mediator or ADR organization may be able to contact the other side to ask if they are willing to mediate
Prepare for your Mediation

- Be prepared to present your case:
  - Draft a mediation brief if requested
    - make your case
    - address weaknesses
    - attach evidence as exhibits
Frame your case in the best light

What is sympathetic about your case?

What is sympathetic about the other side’s case?

Subjective vs. objective
End of Negotiations: To Settle or Walk Away?

- Percentage method: likelihood of success x value of outcome
- Weigh cost of trial: financial and emotional (for you AND your family)
- Prevention of future harm (to you or others)
- “BATNA:” Best alternative to negotiated settlement
Documenting your settlement

• Oral agreement alone – NO!
• If oral agreement, place on the record in court
• Written settlement agreement
  • Law library has sample settlement agreement language for you to use. Ask at Reference desk.
• Written agreement approved by court
  • as “good faith settlement”
• With or without continuing jurisdiction
• Stipulated judgment

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## Clear terms to include in your settlement agreement

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money/other terms</td>
<td></td>
</tr>
<tr>
<td>Timing / Dates</td>
<td></td>
</tr>
<tr>
<td>Jurisdiction</td>
<td></td>
</tr>
<tr>
<td>Remedies for non-compliance</td>
<td></td>
</tr>
<tr>
<td>State that it’s “binding and enforceable”</td>
<td></td>
</tr>
<tr>
<td>Signatures of parties</td>
<td></td>
</tr>
</tbody>
</table>
• What happens if one side violates the settlement agreement?
  • Reinstates case/claim?
  • Monetary damages? Collateral?
  • Right to declaratory relief?
  • CCP §664.6 motion requirements
Should you hire a lawyer?

• **PROS:**
  • Other side may take you more seriously
  • Less stress for you
  • Lawyer can give strategic advice
  • Lawyer may represent you in a lawsuit if negotiations fail
  • Can tell you your rights and duties
  • Can review a settlement agreement before you sign it
Should you hire a lawyer?

• **CONS:**

  • Lawyers who charge by the hour may cost more than the amount in dispute

  • Lawyers on contingency take a portion of your settlement if you recover -- less for you
Consider hiring a lawyer on a “limited scope” basis

1-2 hr. consultation to discuss strategy & deadlines

Drafting (“ghost-writing”) your letter or mediation brief

Sending demand letter on firm letterhead + limited number of hours negotiating for flat fee

Drafting or reviewing settlement agreement
Free & Low-Cost Mediation Services

Before or After Filing Lawsuit

- County of Los Angeles Dispute Resolution Program
  - Before or after lawsuit is filed
  - May be available on day of trial if landlord-tenant, small claims and civil harassment
Free & Low-Cost Mediation Services
After Lawsuit is filed

- Civil Mediation Vendor Resource List:
- Targets cases between $50,000-$200,000
- Not available in family law cases
- Does not require court’s permission
High-Priced Private Mediation Services

- JAMS
- ADR Services
- Signature Resolution Services
- Other smaller companies
- Independent, individual mediators
- Usually charge between $500-$1000 per hour & offer access to retired judges
Mandatory Settlement Conference (MSC)

FREE for *active lawsuits*

A judge can **order** parties to attend (vs. mediation which is voluntary)

A **different** judge presides

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Online Dispute Resolution (ODR) – Parenting Plans

• Helps parents in custody battles negotiate “Family Law Parenting Agreements”
• Both parties respond to online questions; if they agree, computer generates a Parenting Plan
• $25 per party
• http://www.lacourt.org/pdf/modria.pdf
Online Dispute Resolution (ODR) – Small Claims

- Administered by L.A. County Dept. of Consumer & Business Affairs (DCBA)
- Flyer for program included with course materials
Great Books about Negotiating

You can improve your skills with practice. Check out these books for tips!

• *Getting to Yes* by Roger Fisher / William Ury (Main BF637.N4 F57 1991)
• *Never Split the Difference* by Chris Voss
• *Influence: The Psychology of Persuasion* by Robert Cialdini
• *Negotiating with Insurance Companies* by James Publishing (Main KF1147 .N44)
Recommended Reading (cont’d)

• The Law Library has books and guides about negotiating in specific situations:
  • family law ~ personal injury cases ~
  • small claims ~ contract disputes ~ eviction cases ~ and more!

Ask at the reference desk for recommendations!
Additional Resources

- California Courts website has videos and info on mediation and settlement conferences: [http://www.courts.ca.gov/programs-adr.htm](http://www.courts.ca.gov/programs-adr.htm)
- Dispute resolution resources in L.A. Superior Court: [http://www.lacourt.org/division/civil/CI0109.aspx](http://www.lacourt.org/division/civil/CI0109.aspx)
Questions?