

## **LEGAL NEWS**

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### **SURVIVING SMALL CLAIMS COURT**

Small claims courts are designed to resolve disputes quickly and inexpensively. This route may be beneficial when you are owed a minor amount which the debtor refuses to pay. The following is a brief overview of the process with some hints for using the small claims system.

When can you use small claims court? In California, the small claims limit is currently \$5,000 per case. If your claim is only a little more than that maximum, consider using small claims court and giving up the right to the excess. Because lawyers are usually used in higher courts, you may be financially better off in small claims court.

Filing and serving You must complete a preprinted form which the court supplies and pay a filing fee, currently \$15.00. Once you file the claim, it is necessary to inform the defendant that he has been sued. You cannot serve the defendant yourself. You can hire a process server, at a cost usually between \$25 and \$50, or you can have the court serve the complaint by certified mail. While certified mail is less expensive, if the defendant fails to sign for the mail, your case cannot go forward until he is served by another method.

Rules regarding the defendant You must sue the defendant by his exact legal name. Failure to do so may make it impossible to collect your judgment. If you are suing a business and do not know the exact name, check with the County Clerk's office, local licensing agency, or the California Secretary of State's office.

The trial If the defendant is successfully served, both of you will appear in court for the trial. Small claims trials are somewhat informal and very brief. You will usually be allowed about 30 minutes or less for your case (including time for the defendant to speak), so it is important to be brief and to the point.

Bring all of your witnesses to the trial. Signed declarations usually cannot be used because the defendant will not have an opportunity to cross-examine the witness.

Remember, it's up to you to make sure that the judge understands your case:

1. Prepare an outline of your presentation and practice before going to court.
2. Write down dates and events in chronological order.
3. Bring the original and two copies of all your evidence.
4. Listen to what the defendant says and take notes. You will have an opportunity to respond after he is through.
5. Make sure you can justify the amount you're claiming. Show the judge how the numbers add up.

While you cannot have an attorney represent you at a small claims trial, you can consult with one before the trial. You should meet with an attorney to review the applicable law and to help you prepare your case.

Visit the Law Office of Nancy A. Chillag on the web at [www.chillag.com](http://www.chillag.com). Ms. Chillag is an associate member of NTMA.