

SMALL CLAIMS

Before you File: Is Small Claims Right for You?

- ✓ You are owed money, in most cases, up to \$10,000 or \$5,000.00 if you are a business. * Note that this is a general guide and special rules apply if it is COVID-19 related rental debt. If you are seeking COVID-19 related rental debt, this guide does not apply to you.
 - You may not file more than two small claims actions in which the amount demanded exceeds \$2,500, anywhere in the state in any calendar year.
- ✓ You have already asked for the money to be paid, also called a demand. You can find samples of demand letters online.
- ✓ You are able to represent yourself in court – no attorneys allowed. If you are a business, you may have an employee, officer, director appear on behalf of the business. (See required form SC-109.)
- ✓ You have identified the correct Defendant, by name, including exact legal name and address for service. More on topic of service below. If you do not know the exact name of a business or corporation, check with Kern County Clerk (<http://www.kerncountyclerk.com/en/dba/FBN-Search.aspx>) or Office of Secretary of State (<https://businesssearch.sos.ca.gov/>).
- ✓ You are suing in the right place – also known as venue. Where did the harm happen, or where is defendant located? (<https://www.courts.ca.gov/9617.htm>)
Judicial Branch Website on Venue
- ✓ If you are incarcerated suing the Department of Corrections, you must have exhausted your administrative remedies.
- ✓ Is it too late to sue? This is often referred to as Statute of Limitations. For example, to sue for violation of an oral agreement you have two years from when broken. You have three years for property damage and four years for a broken written agreement. You can visit the Law Library to do further research.
- ✓ Finally, keep in mind that even if you win the damages (money) you are asking for, the court will not help you collect the money (collecting a judgment).

Self-Help Center: (661) 868-2532, or
wmselfhelp@kern.courts.ca.gov for remote
assistance

Appointment Access: Mon. – Thurs. 2:00
pm to 4:00 pm

Phone/Email Assistance: Mon. – Thurs.
8:00 am to noon, and 1- 4:00 pm. If lines are
busy, please leave voicemail. Someone will
return your call.

Step 1: Filing Your Claim

*exceptions to these jurisdictional limits may apply in very limited circumstances, such as equitable relief allowed per statute or defendant guarantors. CCP §116.220.

**these forms are the basic forms. You may need additional forms depending on your claim

Forms you NEED:**

- SC-100, Plaintiff’s Claim and Order to go to Court
 - FW-001 and FW-003 to ask the court to waive the court fees
 - You may use MC-025 for additional space to explain your claim.

FILING FEES	
AMOUNT SUING FOR	FEE
\$0.00 - \$1500.00	\$30.00
\$1,501.00 - \$5,000.00	\$50.00
\$5,001.00 - \$10,000.00	\$75.00
MORE THAN 12 CLAIMS IN ONE YEAR	\$100.00

Prepare Your Filing:

1. Consider filing electronically, at home.

Go to kern.courts.ca.gov and look for this icon: →

2. Proofread your forms and make sure all Plaintiffs sign SC-100, including SC-103 if doing business with a fictitious business name.
3. If filing in person, make three copies to submit to the clerk or within a self-addressed, stamped envelope.
4. Double hole-punch your copies at the top and staple each. The clerk will file the ORIGINAL and endorse the copies for you to use/serve. If you would like the clerk to mail you back the endorsed copies, include a self-addressed stamped envelope when filing. Otherwise you can return to the clerk in 1-2 weeks to pick up endorsed copies. You may call beforehand to check if they have been processed: (661) 868-7204.
5. Your endorsed paperwork will have your “trial date.”



Step 2: Notice to the Defendant AKA Service

You MUST have a proof of service (Form SC-104 or SC-104A) filed five (5) days before your “trial date.” Allowable forms of service (1) personal service (2) Substitute Service. You can also ask the clerk to serve the defendant by certified mail, at the time you file, for an additional fee of fifteen (\$15) dollars. If the defendant does not accept service or sign the mailing receipt, you are still responsible for having the defendant served! You can call the clerk at (661) 868-7204 to make sure defendant signed the mailing receipt in time.

Definitions:

Personal Service (use Form SC-104): personal delivery to the person, by anyone other than the Plaintiff, who is 18 or older.

Substitute Service (use Form SC-104A): someone 18 or older, other than yourself, delivers documents to anyone other than defendant who is also at least 18, living at the defendant’s home or in charge where the defendant works AND thereafter mail a second copy to the address where the papers were served. Service is complete on the 10th date after the second copy is mailed.

Method of Service depending on where the D is located	Deadline to have defendant served
Defendant lives in Kern + personal service →	15 days before trial date

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Defendant lives in Kern + substitute service →	25 days before trial date
Defendant lives outside of Kern + personal service →	20 days before trial date
Defendant lives outside of Kern + substitute service →	30 day before trial date (service complete ten days after mailing)

Serving a corporation or business: Remember the Secretary of State’s Website, mentioned in above? Use the Secretary of State’ website to find out who the corporation or entity designated as their agent for service of process. This is the person who the company authorized to receive legal documents. (See SC-104C for more info.)



“What if I can’t get the defendant served?”

That would be a good reason to **try substitute service**. You can request a onetime extension of thirty (30) days or less, or sixty (60) for a defendant who is not in Kern. You must file a declaration (use Form MC-30) and you must file it at least three (3) days before your original trial date. You can also pay a process server to try to serve the individual/business.

Step 3: Preparing for Trial and Trial

- Do you need an interpreter? If so, prepare and file KERN-2390 in advance of your hearing. If you wait until the day of your hearing, the court may not have an interpreter for your desired language in time.
- Trial is informal meaning that the rules of evidence do not apply as they usually would. However, you should still have evidence. Gather receipts, photos, documents and witnesses who are willing to come to court. If you need a subpoena for an unwilling witness to come to court, prepare and file SC-107 ahead of your trial date. The witness may charge a fee for going to court, including time for travel and mileage.
- If you do not think you will have all of your evidence in time for your initial hearing or trial date, but the trial is otherwise ready to move forward (there has been service), then you may ask to postpone the trial. Any party may file a written request for good cause, as follows
 - File the requesting using Form SC-150
 - File 10 days before your initial trial date unless you have a really good reason, which you must disclose to the court, for why you did not do it sooner. For example, an unforeseen emergency
 - Pay a ten dollar (\$10.00) fee to the court.
 - Serve the other party with copy of your request, either in person or by regular mail. Make sure to complete a proof of service to file with the request, showing the court you have complied with this requirement. (SC-112A)
- If the court postpones the trial, they will send a notice to all parties. If they do not postpone the trial, they will notify you. It always good to use the number provided up top to check regularly with the clerk for any changes. If you do not hear from the court, you should go to your scheduled trial date.

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- There is not statutory right or constitutional right to a jury trial in small claims action.

The information provided in this guide is meant to be for general informational purposes and does not constitute legal advice. This handout does not create an attorney-client relationship between you and the court, or any other employee of the court. The information provided by the court does not constitute an offer to represent you. Litigants in civil disputes are not entitled to free legal representation. You should try to consult with an attorney if possible. The information in this guide can change at any moment. Therefore, you should always do your own research and contact the court small claim advisor if you want to make sure this information is still up to date.

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