

HOW TO PREPARE FOR SMALL CLAIMS COURT TO COLLECT RENTAL DEBT



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In this presentation we will discuss:



**NEW COVID-19
LAWS THAT
AFFECT YOUR
RIGHTS TO
COLLECT RENTAL
DEBT**



**HOW TO FILE AND
PREPARE YOUR
CASE FOR TRIAL**



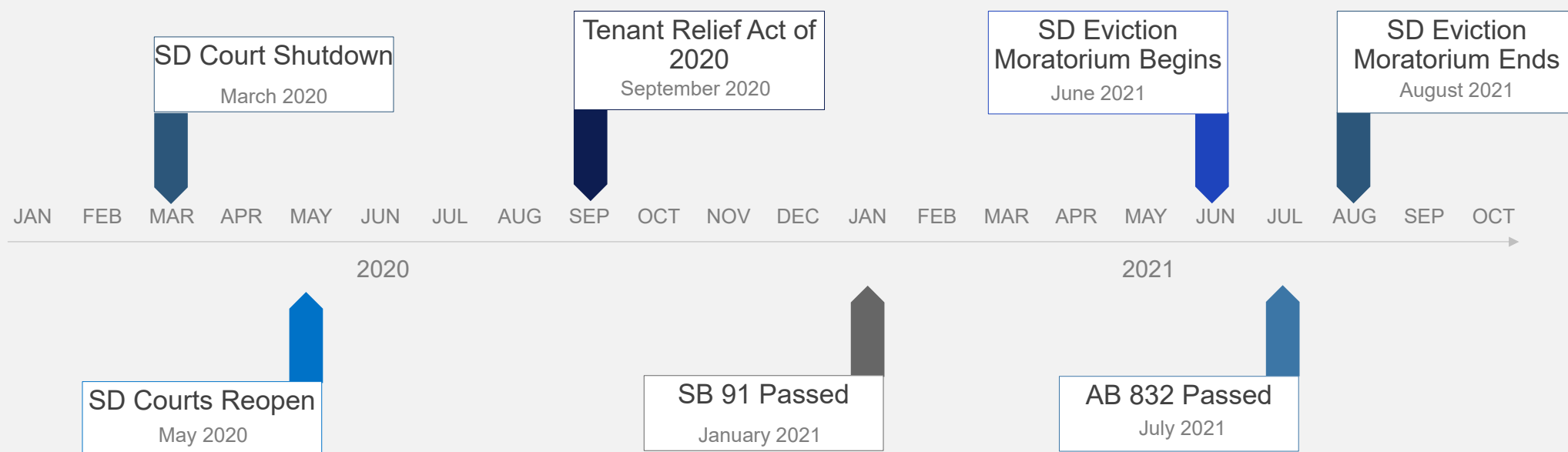
**STRATEGIES FOR
SUCCESS
IN SMALL CLAIMS
COURT**

NEW COVID-19 LAWS THAT AFFECT YOUR RIGHTS TO COLLECT RENTAL DEBT



Timeline

Over the last two years California and San Diego have seen many law and policy changes.



AB 832

- On June 29, 2021, Governor Newsom signed into law AB 832, which amended the COVID-19 Tenant Relief Act of 2020 (“AB 3088”).
- AB 832 changed the procedure for Landlords to recover COVID-19 rental debt in Small Claims Court.

AB 832

- This law defines “COVID-19 rental debt” as “any other unpaid financial obligation of a tenant under the tenancy that came due during the covered period”
- Covered period is March 1, 2020 through September 30, 2021.

AB 832 – When can I sue?

- AB 832 stated that landlords could not sue to recover Covid-19 rental debt before **November 1, 2021.**

AB 832 - Jurisdiction

- The jurisdictional limits of Small Claims Court does not apply to actions to recover COVID-19 rental debt.
- The limit of two small claims actions per year to recover \$2,500 or more does not apply to actions for COVID-19 rental debt.

AB 832 – Rental Assistance

- In addition to filing a Plaintiff's Claim Landlords are required to attach documentation to the complaint that shows:
 1. The landlord made a good faith effort to investigate whether governmental rental assistance is available to the tenant,
 2. The landlord sought governmental rental assistance for the tenant, or
 3. The landlord cooperated with the tenant's efforts to obtain rental assistance from any governmental entity or other third party.

AB 832 – Rental Assistance

- If the landlord (1) refused to obtain rental assistance from the state rental assistance program, and (2) the tenant met the eligibility requirements and (3) funding was available, then the court may reduce the rental damages awarded for any amount of COVID-19 rental debt .

Recap of AB 832

- Landlords cannot file a lawsuit for COVID-19 rental debt until **November 1, 2021**.
- Landlords are required to prove they sought or cooperated with rental assistance for their tenant prior to filing a small claims action.
- Landlords can sue for more than \$10,000 in small claims actions for COVID-19 rental debt.
- You can file more than two small claims actions in the same year for COVID-19 rental debt.

HOW TO FILE AND PREPARE YOUR CASE FOR TRIAL



The Process of Filing a Small Claims Lawsuit



File Your
Case



Serving the
Defendant(s)



Submitting
Evidence



Preparing
for Trial



Trial and
Post Trial

Filing a Case In Small Claims Court

- Prepare and File a Plaintiff's Claim and Order to go to Small Claims Court. (COVID-19 Rental Debt)
- Court form SC-500
<https://www.courts.ca.gov/forms.htm?query=small%20claims>

Filing a Case In Small Claims Court

- Cost of filing depends on amount demanded.
- All San Diego County Small Claims Cases are heard at the Hall of Justice located at 330 W Broadway, San Diego, CA 92101
- New Form SC-500

SC-500 Plaintiff's Claim and ORDER to Go to Small Claims Court (COVID-19 Rental Debt)

Clerk stamps date here when form is filed.

THIS IS AN ACTION TO RECOVER COVID-19 RENTAL DEBT AS DEFINED UNDER CODE OF CIVIL PROCEDURE, § 1179.02. ACCESS TO RECORDS IN THIS CASE IS LIMITED UNDER CODE OF CIVIL PROCEDURE, § 1161.2.5.

Notice to the person being sued:

- You are the defendant if your name is listed in (2) of this form or on form SC-500A. The person suing you is the plaintiff, listed in (1).
- 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. (Note: This small claims case cannot result in your eviction.) Bring witnesses, receipts, and any other 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, and read SC-500-INFO, COVID-19 Rental Debt in Small Claims Court for more information, at www.courts.ca.gov/forms.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en (2) de la página 2 de este formulario, o en el formulario SC-500A. 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. (Nota: Este caso de reclamos menores no puede resultar en un desalojo.) 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, y lea SC-500-INFO, La deuda de alquiler del COVID-19 en la corte de reclamos menores para más información, en www.courts.ca.gov/forms.

Order to Go to Court

The people in (1) and (2) must go to court: (Clerk fills out section below.)

Trial Date	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 forms SC-500-INFO and SC-100-INFO to know your rights. Get the forms at any courthouse or county law library, or go to www.courts.ca.gov/forms.
- Fill out pages 2, 3, and 4 of this form. Make copies of all the pages of this form and any attachments—one for each party named in this case and an extra copy for yourself. Take or mail the original and the 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. Your court may allow electronic filing. Check your local court website for information: www.courts.ca.gov/find-my-court.htm.
- 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 pages of this form and any pages this form tells you to attach. See forms SC-104 and SC-104B.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Judicial Council of California, www.courts.ca.gov
New November 1, 2021. Mandatory Form
Code of Civil Procedure, §§ 116, 110, 110.46, 116.223, 1161.2.5, 1179.02

Plaintiff's Claim and ORDER to Go to Small Claims Court (COVID-19 Rental Debt)

SC-500, Page 1 of 6

SC-500**Plaintiff's Claim and ORDER to Go to
Small Claims Court (COVID-19 Rental Debt)**

Clerk stamps date here when form is filed.

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AS DEFINED UNDER CODE OF CIVIL PROCEDURE,
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UNDER CODE OF CIVIL PROCEDURE, § 1161.2.5.**

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- You are the defendant if your name is listed in (2) of this form or on form SC-500A. The person suing you is the plaintiff, listed in (1).
- 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. (Note: This small claims case cannot result in your eviction.) Bring witnesses, receipts, and any other 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, and read SC-500-INFO, COVID-19 Rental Debt in Small Claims Court for more information, at www.courts.ca.gov/forms.

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:

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en (2) de la página 2 de este formulario, o en el formulario SC-500A. 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. (Nota: Este caso de reclamos menores no puede resultar en un desalojo.) 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, y lea SC-500-INFO, La deuda de alquiler del COVID-19 en la corte de reclamos menores para más información, en www.courts.ca.gov/forms.

Order to Go to Court**The people in (1) and (2) must go to court:** (Clerk fills out section below.)

Trial Date	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 forms SC-500-INFO and SC-100-INFO to know your rights. Get the forms at any courthouse or county law library, or go to www.courts.ca.gov/forms.
- Fill out pages 2, 3, and 4 of this form. Make copies of all the pages of this form and any attachments—one for each party named in this case and an extra copy for yourself. Take or mail the original and the 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. Your court may allow electronic filing. Check your local court website for information: www.courts.ca.gov/find-my-court.htm.
- 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 pages of this form and any pages this form tells you to attach. See forms SC-104 and SC-104B.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Judicial Council of California, www.courts.ca.gov
New November 1, 2021, Mandatory Form
Code of Civil Procedure, §§ 116.110 et seq.,
116.223, 116.125, 1179.02

**Plaintiff's Claim and ORDER
to Go to Small Claims Court
(COVID-19 Rental Debt)**

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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

Email address (if available): _____

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

Email address (if available): _____

☐ Check here if more than two plaintiffs and attach form SC-500A.☐ Check here if either plaintiff listed above is doing business under a fictitious name and attach form SC-103.**2 The defendant (the person being sued) is:**

Name: _____ Phone: _____

Street address: _____

Street City State Zip

Mailing address (if different): _____

Street City State Zip

If more than one defendant, list next defendant here:

Name: _____ Phone: _____

Street address: _____

Street City State Zip

Mailing address (if different): _____

Street City State Zip

☐ Check here if more than two defendants and attach form SC-500A.☐ Check here if any defendant is on active military duty and write defendant's name here:

New November 1, 2021

**Plaintiff's Claim and ORDER to Go to Small Claims Court
(COVID-19 Rental Debt)**

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**SIMONE
& ASSOCIATES**
LANDLORDS' LEGAL CENTER

Plaintiff (list names):

Case Number:

3 The plaintiff claims the defendant owes \$ _____ for COVID-19 rental debt (unpaid rent or other financial obligations of a tenant that came due in the period from March 1, 2020, to September 30, 2021). (Code Civ. Proc., § 1179.02.) (Explain amount below.)

- a. Rent. List all rent you claim defendant owes that came due in the period from March 1, 2020, to September 30, 2021. For each month you claim rent is due, include each amount due and the date it came due.

- b. Other amounts of COVID-19 rental debt. List all unpaid financial obligations under the lease or rental agreement (other than rent) that you claim defendant owes and that came due during the period in (a) above. For each month you claim other financial obligations are due, include each amount, the date it came due, and what it was for (for example, parking fees or utilities included as part of the rental agreement).

☐ Check here if you need more space. Attach one sheet of paper or form MC-031, and write "SC-500, Item 3" at the top.

4 Amounts paid or offsets.

List any amounts you received from defendant, rental assistance programs, and other third parties that you have already credited, and any other amounts you have offset or credited, for rent or other financial obligations due between March 1, 2020, and September 30, 2021, that you are not claiming in item 3 above. Include each amount, when it was paid or credited, and what it was for.

☐ Check here if you need more space. Attach one sheet of paper or form MC-031, and write "SC-500, Item 4" at the top.

5 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. Have you done this?

☐ Yes ☐ No If no, explain why not:

New November 1, 2021

Plaintiff's Claim and ORDER to Go to Small Claims Court
(COVID-19 Rental Debt)

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Plaintiff (list names):

Case Number:

6 Why are you filing your claim at this courthouse?

This courthouse covers the area (check one that applies):

- a. ☐ Where the defendant lives or does business.
b. ☐ Where the rental agreement, lease, or 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.
c. ☐ Other (specify):

7 List the zip code of the place checked in 6 above (if you know it):

8 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.

9 Plaintiff must make a good-faith effort to help defendant obtain rental assistance before filing this case. Check all that apply below. You must also attach documentation of those efforts or, if you do not have documentation, describe your effort below.

Plaintiff made a good-faith effort to help defendant obtain rental assistance before filing this case, as required under Code of Civil Procedure section 871.10(a), by:

- a. ☐ Investigating whether governmental rental assistance is available to the tenant;
b. ☐ Seeking governmental rental assistance for the tenant; or
c. ☐ Cooperating with the tenant's efforts to obtain rental assistance from any governmental entity or other third party.

☐ Check here if documentation is attached. If not attached, describe your efforts below.

10 I understand that the court cannot issue a judgment for me if I have received rental assistance for the amounts I am claiming from defendant. (Both statements must be true.)

- a. I have not received rental assistance or other financial compensation from any other source corresponding to any of the amount claimed in item 3 above; and
b. I do not have any application pending for rental assistance or other financial compensation from any other source corresponding to any of the amount claimed in item 3 above.

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 the laws of the State of California that the information above and on any attachments to this form is true and correct.

Date:

Plaintiff types or prints name here

Plaintiff signs here

Date:

Second plaintiff types or prints name 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. For these and other accommodations, contact the clerk's office for Disability Accommodation Request (form MC-410). (Civ. Code, § 54.8.)

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Plaintiff's Claim and ORDER to Go to Small Claims Court
(COVID-19 Rental Debt)

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SC-500

Information for the defendant (the person being sued)

"Small claims court" is a special court where generally only claims for \$10,000 or less are decided. This limitation has been lifted for cases for recovery of COVID-19 rental debt.* 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? Read form [SC-500-INFO, COVID-19 Rental Debt in Small Claims 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 support your case. And read "Be Prepared for Your Trial" at [www.courts.ca.gov/smallclaims/prepare](#).

Where can I get the court forms I need? Go to any courthouse or your county law library, or get forms at [www.courts.ca.gov/forms](#).

What if I need an accommodation? If you have a disability or are hearing impaired, fill out form [MC-410, Disability Accommodation Request](#). 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 for a court-provided interpreter. You may use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form to request an interpreter. If a court interpreter is unavailable for your trial, it may be necessary to reschedule your trial. You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. (See Cal. Rules of Court, rule 2.893, and form [INT-140](#).)

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](#).

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 before the trial, the plaintiff must file form [CIV-110, Request for Dismissal](#) or a written and signed settlement agreement 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 Declaration](#) 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 for \$10,000 or less, you may file *Defendant's Claim and ORDER to Go to Small Claims Court* (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. (But not your rental unit; this is not an eviction case.)

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).

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](#).

*Limits do not apply in an action to recover COVID-19 rental debt, which is unpaid rent or other financial obligations of a tenant that are due between March 1, 2020, and Sept. 30, 2021. (See Code Civ. Proc., §§ 116.223 & 1179.02.) Read [SC-500-INFO, COVID-19 Rental Debt in Small Claims Court](#).

November 1, 2021

Plaintiff's Claim and ORDER to Go to Small Claims Court
(COVID-19 Rental Debt)

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SC-500

Información para el demandado (la persona demandada)

La "Corte de reclamos menores" es una corte especial donde generalmente se deciden casos por \$10,000 o menos. Se suspendió este límite para acciones para reclamar una deuda de alquiler del COVID-19.* El proceso es rápido y económico. 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? Lea el formulario [SC-500-INFO, La deuda de alquiler del COVID-19 en la corte de reclamos menores](#). No tiene que presentar ningún documento antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio los testigos, recibos y pruebas que apoyan su caso. Y lea "Esté preparado para su juicio" en [www.courts.ca.gov/reclamosmenores/preparesse](#).

¿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](#) (página está en inglés).

¿Qué hago si necesito una modificación? Si tiene una discapacidad o tiene impedimentos de audición, puede llenar el formulario [MC-410, Solicitud de modificaciones para discapacidad](#). Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo bien inglés? Solicite un intérprete al secretario de la corte lo más pronto posible. Puede usar el formulario [INT-300](#) o un formulario de su corte local. Si no está disponible un intérprete de la corte para su juicio, es posible que se tenga que cambiar la fecha de su juicio. No puede llevar su propio intérprete para el juicio a menos que el intérprete haya sido aprobado por la corte como un intérprete certificado, registrado, o provisionalmente calificado. (Vea la regla 2.893 de las Reglas de la Corte de California, y el formulario [INT-140](#).)

¿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](#).

¿Tengo otras opciones? Sí. Si lo está demandando, puede:

- Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en cómo resolver el caso antes del juicio, el Demandante tiene que presentar el formulario [CIV-110 Solicitud de desestimación](#) (Request for Dismissal) o un acuerdo de resolución escrito y firmado al secretario de la corte. Pídale al Asesor de Reclamos Menores que lo ayude.

*Los límites no se aplican a las acciones para reclamar una deuda de alquiler del COVID-19, que se define como alquiler u otras obligaciones financieras pagadas de un inquilino que vencieron entre el 1 de marzo de 2020 y el 30 de septiembre de 2021. (Vea el Código de Procedimiento Civil, secciones 116.223 y 1179.02.) Lea el formulario [SC-500-INFO, La deuda de alquiler del COVID-19 en la corte de reclamos menores](#).

November 1, 2021

Reclamo del Demandante y ORDEN Para Ir a la Corte de
Reclamos Menores (COVID-19 Rental Debt)

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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 despidiera 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, Citorio 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 a plazos.

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. (Pero no su hogar alquilado; esto no es un caso de desalojo.)

¿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 (o 20 días si vive fuera del condado).

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/asadores](#).

Filing a Case In Small Claims Court

- Link to Forms
- [CLICK HERE FOR SC-500 Plaintiff's Claim and ORDER to Go to Small Claims Court \(COVID-19 Rental Debt\)](#)
- [CLICK HERE FOR SC-500-INFO COVID-19 Rental Debt in Small Claims Court](#)

Serving a Small Claims Lawsuit

- The plaintiff cannot serve the defendant. You must have some else serve your lawsuit to the defendant.
- The person who serves your lawsuit to the defendant must be over the age of 18.

Serving a Small Claims Lawsuit

The defendant(s) can be served in any of the following three ways:

1. Personal Service
2. Certified Mailing by a Clerk of the Court
3. Substitute Service

Serving a Small Claims Lawsuit

Deadlines to serve a Defendant Prior to Trial

- If the defendant(s) lives in the county, service must be completed 15 days before trial if service is personal or 25 days before if service is by substitute service.
- If the defendant(s) lives outside of the county, service must be completed 20 days before trial if service is personal or 25 days before if service is by substitute service.

Filing a Proof of Service

The person that serves your claim for you must also sign a proof of service form that you file with the court prior to trial.

Failure to file a proof of service form may cause your case to be delayed or dismissed.

SC-104 Proof of Service

Use this form to serve a **person**, a **business**, or a **public entity**. To learn more about proof of service, read *What Is "Proof of Service"?*, Form SC-104B. To learn more about how to serve a business or entity, read *How to Serve a Business or Public Entity*, Form SC-104C.

To serve a **business**, you must serve **one** of the following people:

- Owner (for a sole proprietorship)
- Partner (for a partnership) or general partner (for a limited partnership)
- Any officer or general manager (corporation or association)
- Any person authorized for service by the business (corporation, association, general partnership, limited partnership)
- Any person authorized for service with the Secretary of State (corporation, association, limited liability company [LLC], limited liability partnership [LLP], limited partnership)

To serve a **public entity**, you must first file a claim with that entity, then serve **one** of the following people:

- Clerk (of a city or county)
- Chief officer or director (of a public agency)
- Any person authorized for service by the entity

① a. If you are serving a **person**, write the person's name below:

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

Business or Agency Name _____
Person Authorized for Service _____ Job Title _____

② **Instructions to Server:**
You must be at least 18 years old and **not be named in this case**. Follow these steps:

- Give a copy of all the documents checked in ③ to the person in ①, **or**
- Give a copy of all the documents checked in ③ to one of the following people:
 - a. A competent adult (at least 18) living with, and at the home of the person in ①, **or**
 - b. An adult (at least 18) who seems to be in charge at the usual workplace of the person in ①, **or**
 - c. An adult (at least 18) who seems to be in charge where the person in ① usually receives mail (but not a U.S. Post Office box), if there is no known physical address for the person in ①, **and** mail a copy of the documents left with one of the adults in a, b, or c above to the person in ①.

THEN

- Complete and sign this form, and
- Give or mail your completed form to the person who asked you to serve these court papers, **in time for the form to be filed with the court at least 5 days before the hearing.**

③ **I served the person in ① a copy of the documents checked below:**

- 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. ☐ Order for examination (This form must be personally served. Check the form that was served):
 - Note: The court can issue a civil arrest warrant if the served party does not come to court **only** if the order for examination was personally served by a registered process server, sheriff, marshal, or someone appointed by the court.
 - (1) ☐ SC-134, *Application and Order to Produce Statement of Assets and to Appear for Examination*
 - (2) ☐ AT-138/EJ-125, *Application and Order for Appearance and Examination*
- d. ☐ Other (specify): _____

④ **Signature of Server:** _____

⑤ **Signature of Person Served:** _____

⑥ **Date:** _____

⑦ **Time:** _____

⑧ **Dept.:** _____

⑨ **Case Number:** _____

⑩ **Case Name:** _____

⑪ **Hearing Date:** _____

⑫ **Time:** _____

⑬ **Dept.:** _____

⑭ **Proof of Service (Small Claims)**

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1. **Fill in court name and street address:**
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL DIVISION, SMALL CLAIMS
330 W. BROADWAY, SAN DIEGO, CA 92101

2. **Fill in case number, case name, hearing date, day, time, and department below:**

3. **Case Number:** _____

4. **Case Name:** _____

5. **Hearing Date:** _____

6. **Time:** _____

7. **Dept.:** _____

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446. **Proof of Service (Small Claims)**

Filing a Proof of Service

- Proofs of service must be filed at least 5 days prior to trial.
- If you need more time to serve the defendant(s), you can request the court continue the trial. Your request to continue the trial must be submitted 10 **court days** prior to your trial.
- Court days are Monday through Friday, Excluding judicial holidays and weekends.

SUBMITTING EVIDENCE

- If you are appearing virtually, all evidence must be submitted and received by the Court **at least ten (10) Court days** before your scheduled hearing date.
- Evidence submitted to the Court for consideration must be served to all parties named in the case. Any evidence not provided to the opposing party may be excluded at the trial.

SUBMITTING EVIDENCE

- The court provides a complete webpage that details how to submit your evidence. It is essential to review this webpage prior to submitting your evidence.
- <https://www.sdcourt.ca.gov/sdcourt/smallclaims2/smallclaimsvirtualhearings>

Preparing for Trial

- Currently cases are being heard virtually and in person. Make sure to read the paperwork the court gave you to know how and when your case will go to trial.

Preparing for Trial

- Parties in Small Claims Court cannot be represented by attorneys.
- You can have an attorney assist you in preparing for trial.
- If you appear in person, you will need three copies of any documentary evidence that you will be presenting at trial (plaintiff, defendant, judge).

Trial

How should I speak to the Judge?

- Tell the judge your story as clearly and concisely as possible.
- Tell the judge what happened in chronological order.
- If you need a translator, you must request one from the Court. Use form INT-300 Request for Interpreter. You cannot bring your own interpreter.

Trial

How will the Judge decide my case?

- Your evidence against the Defendant must be **51% more convincing.**
- Bring all documents, witnesses, and other evidence including:
 1. Contracts
 2. Receipts of expenses/ledgers
 3. Photographs
 4. Official records

Post Trial

What happens after trial?

- Matter may be taken under submission or decided immediately.
- The Plaintiff has ONE chance to win. If you lose as the Plaintiff, you cannot appeal (Exception Cross-Claims)
- If you lose as a Defendant, you have 30 days to appeal
- Once the judgment is final, you may attempt to collect on the judgment.

Post Trial

What is the appeals process like?

- Attorneys are allowed to represent parties in a small claims appeal.
- Your matter is heard in front of a different judge and you will have to put on your case all over again.

Post Trial

How Do I Collect on the Judgment?

- Debtors Exam
- Wage Garnishment
- Bank Levy
- Keeper/Automobile
- Abstract of Judgment

STRATEGIES FOR SUCCESS IN SMALL CLAIMS COURT



IN THIS SECTION WE WILL DISCUSS:

- ① HOW TO UTILIZE THE SMALL CLAIMS ADVISOR
- ② SETTLEMENT NEGOTIATIONS
- ③ PREPARING EVIDENCE AND WITNESS LISTS
- ④ PICKING THE RIGHT JUDGE
- ⑤ MEDIATION

SMALL CLAIMS ADVISOR

- San Diego Superior Court provides a Small Claims Advisor at no cost.
- Advisor is available Monday through Thursday to assist litigants by phone (currently closed for in person assistance)
- **Phone Number:** (858) 634-1777 available Monday through Friday
Phone Hours: 8:30 a.m. - 12:30 p.m., 1:30 p.m. - 4:30 p.m.
- The court also has “how to” guides and information forms to help assist you with your small claims case.

SETTLEMENT NEGOTIATIONS

- You are required to ask the defendant to pay the demand prior to filing a small claims action.
- An earnest attempt to settle a lawsuit prior to going to trial can save you a lot of time and money.
- Tips for Negotiation:
 1. Have the opposing party make the first offer.
 2. Don't make the decision on the spot.
 3. Consider the cost of your time and energy to litigate.
 4. Consider the difficulty of collecting on debts.

SETTLEMENT NEGOTIATIONS

Did you know the court can enter payment plans on judgments? If you are in agreement that the money is owed but the defendant needs time to pay consider entering into a payment plan.

PREPARING EVIDENCE AND WITNESS LISTS

1. Prepare a list of the evidence and witnesses you plan on using to argue your case.
2. Have your evidence organized and include tabs to make it easy for the judge to find the document you are referring to.
3. You do not want to overwhelm the judge with too many documents. Small Claims Trials are supposed to be heard and argued quickly.

HOW TO PREPARE EVIDENCE AND WITNESS LISTS

Examples of Exhibit and Witness Lists.

Exhibit List

Exhibit 1	Lease
Exhibit 2	Rent Increase
Exhibit 3	Move in-Move out Checklist
Exhibit 4	Photographs of the Property Before Tenancy
Exhibit 5	Notice to Vacate
Exhibit 6	Security Deposit
Exhibit 7	Rent Ledger

Witness List

Witness 1	John Smith, Owner
Witness 2	Mary Johnson, Property Manager
Witness 3	Matthew Williams, Handyman

PICKING THE RIGHT JUDGE

1. Judge
2. Commissioner
3. Judge Pro Tem (Temporary Judge)

MEDIATION

- Typically, before going to trial the clerk of the court will offer the Court's mediation services to you.
- Mediation is a useful tool to negotiate a positive outcome with the defendant, unless you know the defendant is unreasonable.
- If successful, mediation will put you in control of the outcome of your case. When you go to trial, the judge has the sole power in deciding the outcome of the case.

QUESTIONS?