

**Small Claims Court Rules and Procedures (SC-RAP)
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SMALL CLAIMS COURT

**California Code of Civil Procedure
Title 1, CHAPTER 5.5., Articles 1-9**

**California Rules of Court: Title Three. Civil Rules
(Rules 3.2100-3.2120)**

**Superior Court of Orange County Local Rules of Court: Division 3. Civil Rules. Chapter 3
Small Claims (Rule 341-348)**

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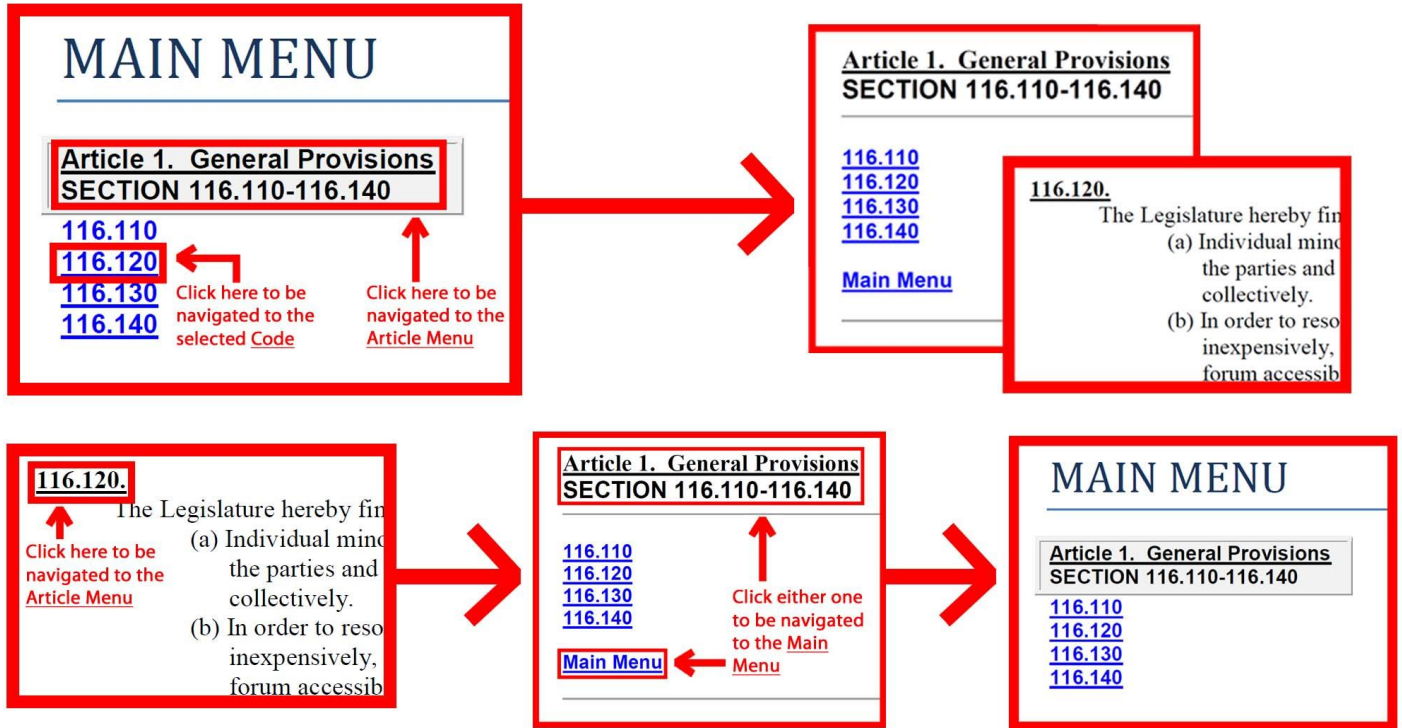
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Article 1. General Provisions

SECTION 116.110-116.140

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116.110.

This chapter shall be known and may be cited as "The Small Claims Act."

116.120.

The Legislature hereby finds and declares as follows:

- (a) Individual minor civil disputes are of special importance to the parties and of significant social and economic consequence collectively.
- (b) In order to resolve minor civil disputes expeditiously, inexpensively, and fairly, it is essential to provide a judicial forum accessible to all parties directly involved in resolving these disputes.
- (c) The small claims divisions have been established to provide a forum to resolve minor civil disputes, and for that reason constitute a fundamental element in the administration of justice and the protection of the rights and property of individuals.
- (d) The small claims divisions, the provisions of this chapter, and the rules of the Judicial Council regarding small claims actions shall operate to ensure that the convenience of parties and witnesses who are individuals shall prevail, to the extent possible, over the convenience of any other parties or witnesses.

116.130.

In this chapter, unless the context indicates otherwise:

- (a) "Plaintiff" means the party who has filed a small claims action. The term includes a defendant who has filed a claim against a plaintiff.
- (b) "Defendant" means the party against whom the plaintiff has filed a small claims action. The term includes a plaintiff against whom a defendant has filed a claim.
- (c) "Judgment creditor" means the party, whether plaintiff or defendant, in whose favor a money judgment has been rendered.
- (d) "Judgment debtor" means the party, whether plaintiff or defendant, against whom a money judgment has been rendered.
- (e) "Person" means an individual, corporation, partnership, limited liability partnership, limited liability company, firm, association, or other entity.
- (f) "Individual" means a natural person.
- (g) "Party" means a plaintiff or defendant.
- (h) "Motion" means a party's written request to the court for an order or other action. The term includes an informal written request to the court, such as a letter.
- (i) "Declaration" means a written statement signed by an

individual which includes the date and place of signing, and a statement under penalty of perjury under the laws of this state that its contents are true and correct.

- (j) "Good cause" means circumstances sufficient to justify the requested order or other action, as determined by the judge.
- (k) "Mail" means first-class mail with postage fully prepaid, unless stated otherwise.

116.140.

The following do not apply in small claims actions:

- (a) Subdivision (a) of Section 1013 and subdivision (b) of Section 1005, on the extension of the time for taking action when notice is given by mail.
 - (b) Title 6.5 (commencing with Section 481.010) of Part 2, on the issuance of prejudgment attachments.
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Article 2. Small Claims Court

SECTION 116.210-116.270

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116.210.

In each superior court there shall be a small claims division. The small claims division may be known as the small claims court.

116.220.

- (a) The small claims court has jurisdiction in the following actions:
- (1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount of the demand does not exceed five thousand dollars (\$5,000).
 - (2) Except as provided in subdivisions (c), (e), and (f), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars (\$5,000), if the legality of the tax is not contested by the defendant.
 - (3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars (\$5,000).
 - (4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars (\$5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars (\$5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.
 - (5) For an injunction or other equitable relief only when a statute expressly authorizes a small claims court to award that relief.
- (b) In any action seeking relief authorized by paragraphs (1) to (4), inclusive, of subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.
- (c) Notwithstanding subdivision (a), the small claims court has jurisdiction over a defendant guarantor as follows:
- (1) For any action brought by a natural person against the Registrar of the Contractors' State License Board as the defendant guarantor, the small claims jurisdictional limit stated in Section 116.221 shall apply.
 - (2) For any action against a defendant guarantor that does not charge a fee for its guarantor or surety services, if the amount of

the demand does not exceed two thousand five hundred dollars (\$2,500).

- (3) For any action brought by a natural person against a defendant guarantor that charges a fee for its guarantor or surety services, if the amount of the demand does not exceed six thousand five hundred dollars (\$6,500).
- (4) For any action brought by an entity other than a natural person against a defendant guarantor that charges a fee for its guarantor or surety services or against the Registrar of the Contractors' State License Board as the defendant guarantor, if the amount of the demand does not exceed four thousand dollars (\$4,000).
- (d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver is not operative until judgment.
- (e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections and Rehabilitation facility, the small claims court has jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.
- (f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of compliance with the requirements of subdivision (e) at the time of trial, the judicial officer shall, at his or her discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide that proof.
- (g) For purposes of this section, "department" includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

116.221.

In addition to the jurisdiction conferred by Section 116.220, the small claims court has jurisdiction in an action brought by a natural person, if the amount of the demand does not exceed seven thousand five hundred dollars (\$7,500), except for actions otherwise prohibited by subdivision (c) of Section 116.220 or subdivision (a) of Section 116.231.

116.222.

If the action is to enforce the payment of a debt, the statement of calculation of liability shall separately state the original debt, each payment credited to the debt, each fee and charge

added to the debt, each payment credited against those fees and charges, all other debits or charges to the account, and an explanation of the nature of those fees, charges, debits, and all other credits to the debt, by source and amount.

116.225.

An agreement entered into or renewed on or after January 1, 2003, establishing a forum outside of California for an action arising from an offer or provision of goods, services, property, or extensions of credit primarily for personal, family, or household purposes that is otherwise within the jurisdiction of a small claims court of this state is contrary to public policy and is void and unenforceable.

116.230.

- (a) In a small claims case, the clerk of the court shall charge and collect only those fees authorized under this chapter.
- (b) If the party filing a claim has filed 12 or fewer small claims in the state within the previous 12 months, the filing fee is the following:
 - (1) Thirty dollars (\$30) if the amount of the demand is one thousand five hundred dollars (\$1,500) or less.
 - (2) Fifty dollars (\$50) if the amount of the demand is more than one thousand five hundred dollars (\$1,500) but less than or equal to five thousand dollars (\$5,000).
 - (3) Seventy-five dollars (\$75) if the amount of the demand is more than five thousand dollars (\$5,000).
- (c) If the party has filed more than 12 other small claims in the state within the previous 12 months, the filing fee is one hundred dollars (\$100).
- (d)
 - (1) If, after having filed a claim and paid the required fee under paragraph (1) of subdivision (b), a party files an amended claim or amendment to a claim that raises the amount of the demand so that the filing fee under paragraph (2) of subdivision (b) would be charged, the filing fee for the amended claim or amendment is twenty dollars (\$20).
 - (2) If, after having filed a claim and paid the required fee under paragraph (2) of subdivision (b), a party files an amended claim or amendment to a claim that raises the amount of the demand so that the filing fee under paragraph (3) of subdivision (b) would be charged, the filing fee for the amended claim or amendment is twenty-five dollars (\$25).
 - (3) If, after having filed a claim and paid the required fee under paragraph (1) of subdivision (b), a party files an amended claim or amendment to a claim that raises the amount of the demand so that the

filing fee under paragraph (3) of subdivision (b) would be charged, the filing fee for the amended claim or amendment is forty-five dollars (\$45).

- (4) The additional fees paid under this subdivision are due upon filing. The court shall not reimburse a party if the party's claim is amended to demand a lower amount that falls within the range for a filing fee lower than that originally paid.
- (e) Each party filing a claim shall file a declaration with the claim stating whether that party has filed more than 12 other small claims in the state within the last 12 months.
- (f) The clerk of the court shall deposit fees collected under this section into a bank account established for this purpose by the Administrative Office of the Courts and maintained under rules adopted by or trial court financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206 of the Government Code. The deposits shall be made as required under Section 68085.1 of the Government Code and trial court financial policies and procedures authorized by the Judicial Council.
- (g)
 - (1) The Administrative Office of the Courts shall distribute six dollars (\$6) of each thirty-dollar (\$30) fee, eight dollars (\$8) of each fifty-dollar (\$50) fee, ten dollars (\$10) of each seventy-five-dollar (\$75) fee, and fourteen dollars (\$14) of each one hundred-dollar (\$100) fee collected under subdivision (b) or (c) to a special account in the county in which the court is located to be used for the small claims advisory services described in Section 116.940, or, if the small claims advisory services are administered by the court, to the court. The Administrative Office of the Courts shall also distribute two dollars (\$2) of each seventy-five-dollar (\$75) fee collected under subdivision (b) to the law library fund in the county in which the court is located.
 - (2) From the fees collected under subdivision (d), the Administrative Office of the Courts shall distribute two dollars (\$2) to the law library fund in the county in which the court is located, and three dollars (\$3) to the small claims advisory services described in Section 116.940, or, if the small claims advisory services are administered by the court, to the court.
 - (3) Records of these moneys shall be available from the Administrative Office of the Courts for inspection by the public on request.
 - (4) Nothing in this section precludes the court or county from contracting with a third party to provide small claims advisory services as described in Section 116.940.
- (h) The remainder of the fees collected under subdivisions (b), (c), and (d) shall be transmitted monthly to the Controller for deposit in the Trial Court Trust Fund.

- (i) All money distributed under this section to be used for small claims advisory services shall be used only for providing those services as described in Section 116.940. Nothing in this section shall preclude the county or the court from procuring other funding to comply with the requirements of Section 116.940.

116.231.

- (a) Except as provided in subdivision (d), no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars (\$2,500), anywhere in the state in any calendar year.
- (b) Except as provided in subdivision (d), if the amount demanded in any small claims action exceeds two thousand five hundred dollars (\$2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the demand exceeded two thousand five hundred dollars (\$2,500) have been filed by that party in this state within the calendar year.
- (c) The Legislature finds and declares that the pilot project conducted under the authority of Chapter 1196 of the Statutes of 1991 demonstrated the efficacy of the removal of the limitation on the number of actions public entities may file in the small claims courts on claims exceeding two thousand five hundred dollars (\$2,500).
- (d) The limitation on the number of filings exceeding two thousand five hundred dollars (\$2,500) does not apply to filings where the claim does not exceed five thousand dollars (\$5,000) that are filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity. If any small claims action is filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity pursuant to this section, and the defendant informs the court either in advance of the hearing by written notice or at the time of the hearing, that he or she is represented in the action by legal counsel, the action shall be transferred out of the small claims division. A city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity may not file a claim within the small claims division if the amount of the demand exceeds five thousand dollars (\$5,000).

116.232.

A fee of ten dollars (\$10) shall be charged and collected from the plaintiff for each defendant to whom the court clerk mails a copy of the claim under Section 116.340. This fee shall be distributed to the court in which it was collected.

116.240.

- (a) With the consent of the parties who appear at the hearing, the court may order a case to be heard by a temporary judge who is a member of the State Bar, and who has been sworn and empowered to act until final determination of the case.
- (b) Prior to serving as a temporary judge in small claims court, on and after July 1, 2006, and at least every three years thereafter, each temporary judge shall take the course of study offered by the courts on ethics and substantive law under rules adopted by the Judicial Council. The course shall include, but not be limited to, state and federal consumer laws, landlord-tenant law along with any applicable county specific rent deposit law, the state and federal Fair Debt Collection Practices Acts, the federal Truth in Lending Act, the federal Fair Credit Billing Act, the federal Electronic Fund Transfer Act, tort law, and contract law, including defenses to contracts and defenses to debts. On substantive law, the courts may receive assistance from the Department of Consumer Affairs, to the extent that the department is fiscally able to provide that assistance.

116.250.

- (a) Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding other judicial holidays.
- (b) Each small claims division of a superior court with seven or more judicial officers shall conduct at least one night session or Saturday session each month for the purpose of hearing small claims cases other than small claims appeals. The term "session" includes, but is not limited to, a proceeding conducted by a member of the State Bar acting as a mediator or referee.

116.260.

In each county, individual assistance shall be made available to advise small claims litigants and potential litigants without charge as provided in Section 116.940 and by rules adopted by the Judicial Council.

116.270.

Any small claims division may use law clerks to assist the judge with legal research of small claims cases.

Article 3. Actions

SECTION 116.310-116.390

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116.310.

- (a) No formal pleading, other than the claim described in Section 116.320 or 116.360, is necessary to initiate a small claims action.
- (b) The pretrial discovery procedures described in Section 2019.010 are not permitted in small claims actions.

116.320.

- (a) A plaintiff may commence an action in the small claims court by filing a claim under oath with the clerk of the small claims court in person, by mail, by facsimile transmission if authorized pursuant to Section 1010.5, or by electronic means as authorized by Section 1010.6.
- (b) The claim form shall be a simple nontechnical form approved or adopted by the Judicial Council. The claim form shall set forth a place for (1) the name and address of the defendant, if known; (2) the amount and the basis of the claim; (3) that the plaintiff, where possible, has demanded payment and, in applicable cases, possession of the property; (4) that the defendant has failed or refused to pay, and, where applicable, has refused to surrender the property; and (5) that the plaintiff understands that the judgment on his or her claim will be conclusive and without a right of appeal.
- (c) The form or accompanying instructions shall include information that the plaintiff (1) may not be represented by an attorney, (2) has no right of appeal, and (3) may ask the court to waive fees for filing and serving the claim on the ground that the plaintiff is unable to pay them, using the forms approved by the Judicial Council for that purpose.

116.330.

- (a) When a claim is filed, the clerk shall schedule the case for hearing and shall issue an order directing the parties to appear at the time set for the hearing with witnesses and documents to prove their claim or defense. The case shall be scheduled for hearing no earlier than 20 days but not more than 70 days from the date of the order.
- (b) In lieu of the method of setting the case for hearing described in subdivision (a), at the time a claim is filed the clerk may do all of the following:
 - (1) Cause a copy of the claim to be mailed to the defendant by any form of mail providing for a return receipt.
 - (2) On receipt of proof that the claim was served as provided in paragraph (1), issue an order scheduling the case for hearing in accordance with subdivision (a) and directing the parties to appear

at the time set for the hearing with witnesses and documents to prove their claim or defense.

- (3) Cause a copy of the order setting the case for hearing and directing the parties to appear, to be served upon the parties by any form of mail providing for a return receipt.

116.340.

- (a) Service of the claim and order on the defendant may be made by any one of the following methods:
 - (1) The clerk may cause a copy of the claim and order to be mailed to the defendant by any form of mail providing for a return receipt.
 - (2) The plaintiff may cause a copy of the claim and order to be delivered to the defendant in person.
 - (3) The plaintiff may cause service of a copy of the claim and order to be made by substituted service as provided in subdivision (a) or (b) of Section 415.20 without the need to attempt personal service on the defendant. For these purposes, substituted service as provided in subdivision (b) of Section 415.20 may be made at the office of the sheriff or marshal who shall deliver a copy of the claim and order to any person authorized by the defendant to receive service, as provided in Section 416.90, who is at least 18 years of age, and thereafter mailing a copy of the claim and order to the defendant's usual mailing address.
 - (4) The clerk may cause a copy of the claim to be mailed, the order to be issued, and a copy of the order to be mailed as provided in subdivision (b) of Section 116.330.
- (b) Service of the claim and order on the defendant shall be completed at least 15 days before the hearing date if the defendant resides within the county in which the action is filed, or at least 20 days before the hearing date if the defendant resides outside the county in which the action is filed.
- (c) Proof of service of the claim and order shall be filed with the small claims court at least five days before the hearing.
- (d) Service by the methods described in subdivision (a) shall be deemed complete on the date that the defendant signs the mail return receipt, on the date of the personal service, as provided in Section 415.20, or as established by other competent evidence, whichever applies to the method of service used.
- (e) Service shall be made within this state, except as provided in subdivisions (f) and (g).
- (f) The owner of record of real property in California who resides in another state and who has no lawfully designated agent in California for service of process may be served by any of the methods described in this section if the claim relates to that property.
- (g) A nonresident owner or operator of a motor vehicle involved in an accident within this state may be served pursuant to the

provisions on constructive service in Sections 17450 to 17461, inclusive, of the Vehicle Code without regard to whether the defendant was a nonresident at the time of the accident or when the claim was filed. Service shall be made by serving both the Director of the California Department of Motor Vehicles and the defendant, and may be made by any of the methods authorized by this chapter or by registered mail as authorized by Section 17454 or 17455 of the Vehicle Code.

- (h) If an action is filed against a principal and his or her guaranty or surety pursuant to a guarantor or suretyship agreement, a reasonable attempt shall be made to complete service on the principal. If service is not completed on the principal, the action shall be transferred to the court of appropriate jurisdiction.

116.360.

- (a) The defendant may file a claim against the plaintiff in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231. The claim need not relate to the same subject or event as the plaintiff's claim.
- (b) The defendant's claim shall be filed and served in the manner provided for filing and serving a claim of the plaintiff under Sections 116.330 and 116.340.
- (c) The defendant shall cause a copy of the claim and order to be served on the plaintiff at least five days before the hearing date, unless the defendant was served 10 days or less before the hearing date, in which event the defendant shall cause a copy of the defendant's claim and order to be served on the plaintiff at least one day before the hearing date.

116.370.

- (a) Venue and court location requirements in small claims actions shall be the same as in other civil actions. The court may prescribe by local rule the proper court locations for small claims actions.
- (b) A defendant may challenge venue or court location by writing to the court and mailing a copy of the challenge to each of the other parties to the action, without personally appearing at the hearing.
- (c) In all cases, including those in which the defendant does not either challenge venue or court location or appear at the hearing, the court shall inquire into the facts sufficiently to determine whether venue and court location are proper, and shall make its determination accordingly.
 - (1) If the court determines that the action was not commenced in the proper venue, the court, on its own motion, shall dismiss the action without prejudice, unless all defendants are present and agree

that the action may be heard. If the court determines that the action was not commenced in the proper court location, the court may transfer the action to a proper location pursuant to local rule.

- (2) If the court determines that the action was commenced in the proper venue and court location, the court may hear the case if all parties are present. If the defendant challenged venue or court location and all parties are not present, the court shall postpone the hearing for at least 15 days and shall notify all parties by mail of the court's decision and the new hearing date, time, and place.

116.390.

- (a) If a defendant has a claim against a plaintiff that exceeds the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231, and the claim relates to the contract, transaction, matter, or event which is the subject of the plaintiff's claim, the defendant may commence an action against the plaintiff in a court of competent jurisdiction and request the small claims court to transfer the small claims action to that court.
 - (b) The defendant may make the request by filing with the small claims court in which the plaintiff commenced the action, at or before the time set for the hearing of that action, a declaration stating the facts concerning the defendant's action against the plaintiff with a true copy of the complaint so filed by the defendant against the plaintiff. The defendant shall cause a copy of the declaration and complaint to be personally delivered to the plaintiff at or before the time set for the hearing of the small claims action.
 - (c) In ruling on a motion to transfer, the small claims court may do any of the following: (1) render judgment on the small claims case prior to the transfer; (2) not render judgment and transfer the small claims case; (3) refuse to transfer the small claims case on the grounds that the ends of justice would not be served. If the small claims action is transferred prior to judgment, both actions shall be tried together in the transferee court.
 - (d) When the small claims court orders the action transferred, it shall transmit all files and papers to the transferee court.
 - (e) The plaintiff in the small claims action shall not be required to pay to the clerk of the transferee court any transmittal, appearance, or filing fee unless the plaintiff appears in the transferee court, in which event the plaintiff shall be required to pay the filing fee and any other fee required of a defendant in the transferee court. However, if the transferee court rules against the plaintiff in the action filed in that court, the court may award to the defendant in that action the costs incurred as a consequence of the transfer, including attorney's fees and filing fees.
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Article 4. Parties

SECTION 116.410-116.430

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116.410.

- (a) Any person who is at least 18 years of age, or legally emancipated, and mentally competent may be a party to a small claims action.
- (b) A minor or incompetent person may appear by a guardian ad litem appointed by a judge of the court in which the action is filed.

116.420.

- (a) No claim shall be filed or maintained in small claims court by the assignee of the claim.
- (b) This section does not prevent the filing or defense of an action in the small claims court by (1) a trustee in bankruptcy in the exercise of the trustee's duties as trustee, or (2) by the holder of a security agreement, retail installment contract, or lien contract subject to the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code) or the Automobile Sales Finance Act (Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code), purchased by the holder for the holder's portfolio of investments, provided that the holder is not an assignee for the purpose of collection.
- (c) This section does not prevent the filing in small claims court by a local government which is self-insured for purposes of workers' compensation and is seeking subrogation pursuant to Section 3852 of the Labor Code.

116.430.

- (a) If the plaintiff operates or does business under a fictitious business name and the claim relates to that business, the claim shall be accompanied by the filing of a declaration stating that the plaintiff has complied with the fictitious business name laws by executing, filing, and publishing a fictitious business name statement as required.
 - (b) A small claims action filed by a person who has not complied with the applicable fictitious business name laws by executing, filing, and publishing a fictitious business name statement as required shall be dismissed without prejudice.
 - (c) For purposes of this section, "fictitious business name" means the term as defined in Section 17900 of the Business and Professions Code, and "fictitious business name statement" means the statement described in Section 17913 of the Business and Professions Code.
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Article 5. Hearing
SECTION 116.510-116.570

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116.510.

The hearing and disposition of the small claims action shall be informal, the object being to dispense justice promptly, fairly, and inexpensively.

116.520.

- (a) The parties have the right to offer evidence by witnesses at the hearing or, with the permission of the court, at another time.
- (b) If the defendant fails to appear, the court shall still require the plaintiff to present evidence to prove his or her claim.
- (c) The court may consult witnesses informally and otherwise investigate the controversy with or without notice to the parties.

116.530.

- (a) Except as permitted by this section, no attorney may take part in the conduct or defense of a small claims action.
- (b) Subdivision (a) does not apply if the attorney is appearing to maintain or defend an action in any of the following capacities:
 - (1) By or against himself or herself.
 - (2) By or against a partnership in which he or she is a general partner and in which all the partners are attorneys.
 - (3) By or against a professional corporation of which he or she is an officer or director and of which all other officers and directors are attorneys.
- (c) Nothing in this section shall prevent an attorney from doing any of the following:
 - (1) Providing advice to a party to a small claims action, either before or after the commencement of the action.
 - (2) Testifying to facts of which he or she has personal knowledge and about which he or she is competent to testify.
 - (3) Representing a party in an appeal to the superior court.
 - (4) Representing a party in connection with the enforcement of a judgment.

116.531.

Nothing in this article shall prevent a representative of an insurer or other expert in the matter before the small claims court from rendering assistance to a party in the litigation except during the conduct of the hearing, either before or after the commencement of the action, unless otherwise prohibited by law; nor shall anything in this article prevent those individuals from testifying to facts of which they have personal knowledge and about which they are competent to testify.

116.540.

- (a) Except as permitted by this section, no individual other than the plaintiff and the defendant may take part in the conduct or defense of a small claims action.
- (b) Except as additionally provided in subdivision (i), a corporation may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, who is employed, appointed, or elected for purposes other than solely representing the corporation in small claims court.
- (c) A party who is not a corporation or a natural person may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, or in the case of a partnership, a partner, engaged for purposes other than solely representing the party in small claims court.
- (d) If a party is an individual doing business as a sole proprietorship, the party may appear and participate in a small claims action by a representative and without personally appearing if both of the following conditions are met:
 - (1) The claim can be proved or disputed by evidence of an account that constitutes a business record as defined in Section 1271 of the Evidence Code, and there is no other issue of fact in the case.
 - (2) The representative is a regular employee of the party for purposes other than solely representing the party in small claims actions and is qualified to testify to the identity and mode of preparation of the business record.
- (e) A plaintiff is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if (1) the plaintiff is serving on active duty in the United States Armed Forces outside this state, (2) the plaintiff was assigned to his or her duty station after his or her claim arose, (3) the assignment is for more than six months, (4) the representative is serving without compensation, and (5) the representative has appeared in small claims actions on behalf of others no more than four times during the calendar year. The defendant may file a claim in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231.
- (f) A party incarcerated in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities facility is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim, or may authorize another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

- (g) A defendant who is a nonresident owner of real property may defend against a claim relating to that property without personally appearing by (1) submitting written declarations to serve as evidence supporting his or her defense, (2) allowing another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year, or (3) taking the action described in both (1) and (2).
- (h) A party who is an owner of rental real property may appear and participate in a small claims action through a property agent under contract with the owner to manage the rental of that property, if (1) the owner has retained the property agent principally to manage the rental of that property and not principally to represent the owner in small claims court, and (2) the claim relates to the rental property.
- (i) A party that is an association created to manage a common interest development, as defined in Section 1351 of the Civil Code, may appear and participate in a small claims action through an agent, a management company representative, or bookkeeper who appears on behalf of that association.
- (j) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of a party under subdivisions (b) to (i), inclusive, to file a declaration stating (1) that the individual is authorized to appear for the party, and (2) the basis for that authorization. If the representative is appearing under subdivision (b), (c), (d), (h), or (i), the declaration also shall state that the individual is not employed solely to represent the party in small claims court. If the representative is appearing under subdivision (e), (f), or (g), the declaration also shall state that the representative is serving without compensation, and has appeared in small claims actions on behalf of others no more than four times during the calendar year.
- (k) A husband or wife who sues or who is sued with his or her spouse may appear and participate on behalf of his or her spouse if (1) the claim is a joint claim, (2) the represented spouse has given his or her consent, and (3) the court determines that the interests of justice would be served.
- (l) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.
- (m) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

116.541.

- (a) Notwithstanding Section 116.540 or any other provision

- of law, the Department of Corrections or the Department of the Youth Authority may appear and participate in a small claims action through a regular employee, who is employed or appointed for purposes other than solely representing that department in small claims court.
- (b) Where the Department of Corrections or the Department of the Youth Authority is named as a defendant in small claims court, the representative of the department is not required to personally appear to challenge the plaintiff's compliance with the pleading requirements and may submit pleadings or declarations to assert that challenge.
 - (c) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of the Department of Corrections or the Department of the Youth Authority under subdivision (a) to file a declaration stating (1) that the individual is authorized to appear for the party, (2) the basis for that authorization, and (3) that the individual is not employed solely to represent the party in small claims court.
 - (d) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.
 - (e) For purposes of this section, all references to the Department of Corrections or the Department of the Youth Authority include an employee thereof, against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

116.550.

- (a) If the court determines that a party does not speak or understand English sufficiently to comprehend the proceedings or give testimony, and needs assistance in so doing, the court may permit another individual (other than an attorney) to assist that party.
- (b) Each small claims court shall make a reasonable effort to maintain and make available to the parties a list of interpreters who are able and willing to aid parties in small claims actions either for no fee, or for a fee which is reasonable considering the nature and complexity of the claims. The list shall include interpreters for all languages that require interpretation before the court, as determined by the court in its discretion and in view of the court's experience.
- (c) Failure to maintain a list of interpreters, or failure to include an interpreter for a particular language, shall not invalidate any proceedings before the court.
- (d) If a court interpreter or other competent interpreter is not available to aid a party in a small claims action, at the first

hearing of the case the court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual (other than an attorney) to assist that party. Any additional continuances shall be at the discretion of the court.

116.560.

- (a) Whenever a claim that is filed against a person operating or doing business under a fictitious business name relates to the defendant's business, the court shall inquire at the time of the hearing into the defendant's correct legal name and the name or names under which the defendant does business. If the correct legal name of the defendant, or the name actually used by the defendant, is other than the name stated on the claim, the court shall amend the claim to state the correct legal name of the defendant, and the name or names actually used by the defendant.
- (b) The plaintiff may request the court at any time, whether before or after judgment, to amend the plaintiff's claim or judgment to include both the correct legal name and the name or names actually used by the defendant. Upon a showing of good cause, the court shall amend the claim or judgment to state the correct legal name of the defendant, and the name or names actually used by the defendant.
- (c) For purposes of this section, "fictitious business name" means the term as defined in Section 17900 of the Business and Professions Code.

116.570.

- (a) Any party may submit a written request to postpone a hearing date for good cause.
 - (1) The written request may be made either by letter or on a form adopted or approved by the Judicial Council.
 - (2) The request shall be filed at least 10 days before the hearing date, unless the court determines that the requesting party has good cause to file the request at a later date.
 - (3) On the date of making the written request, the requesting party shall mail or personally deliver a copy to each of the other parties to the action.
 - (4)
 - (A) If the court finds that the interests of justice would be served by postponing the hearing, the court shall postpone the hearing, and shall notify all parties by mail of the new hearing date, time, and place.
 - (B) On one occasion, upon the written request of a defendant guarantor, the court shall postpone the hearing for at least 30 days, and the court shall take this action without a hearing. This subparagraph does not limit the discretion of the court to grant additional postponements under subparagraph (A).

- (5) The court shall provide a prompt response by mail to any person making a written request for postponement of a hearing date under this subdivision.
- (b) If service of the claim and order upon the defendant is not completed within the number of days before the hearing date required by subdivision (b) of Section 116.340, and the defendant has not personally appeared and has not requested a postponement, the court shall postpone the hearing for at least 15 days. If a postponement is ordered under this subdivision, the clerk shall promptly notify all parties by mail of the new hearing date, time, and place.
- (c) This section does not limit the inherent power of the court to order postponements of hearings in appropriate circumstances.
- (d) A fee of ten dollars (\$10) shall be charged and collected for the filing of a request for postponement and rescheduling of a hearing date after timely service pursuant to subdivision (b) of Section 116.340 has been made upon the defendant.
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Article 6. Judgment
SECTION 116.610-116.630

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116.610.

- (a) The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231, and may make any orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.
- (b) The court may, at its discretion or on request of any party, continue the matter to a later date in order to permit and encourage the parties to attempt resolution by informal or alternative means.
- (c) The judgment shall include a determination whether the judgment resulted from a motor vehicle accident on a California highway caused by the defendant's operation of a motor vehicle, or by the operation by some other individual, of a motor vehicle registered in the defendant's name.
- (d) If the defendant has filed a claim against the plaintiff, or if the judgment is against two or more defendants, the judgment, and the statement of decision if one is rendered, shall specify the basis for and the character and amount of the liability of each of the parties, including, in the case of multiple judgment debtors, whether the liability of each is joint or several.
- (e) If specific property is referred to in the judgment, whether it be personal or real, tangible or intangible, the property shall be identified with sufficient detail to permit efficient implementation or enforcement of the judgment.
- (f) In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.
- (g)
 - (1) The prevailing party is entitled to the costs of the action, including the costs of serving the order for the appearance of the defendant.
 - (2) Notwithstanding paragraph (1) of this subdivision and subdivision (b) of Section 1032, the amount of the small claims court fee paid by a party pursuant to subdivision (c) of Section 116.230 that exceeds the amount that would have been paid if the party had paid the fee pursuant to subdivision (b) of Section 116.230 shall not be recoverable as costs.
- (h) When the court renders judgment, the clerk shall promptly deliver or mail notice of entry of the judgment to the parties, and shall execute a certificate of personal delivery or mailing and place it in the file.
- (i) The notice of entry of judgment shall be on a form approved or

adopted by the Judicial Council.

116.620.

- (a) The judgment debtor shall pay the amount of the judgment either immediately or at the time and upon the terms and conditions, including payment by installments, which the court may order.
- (b) The court may at any time, for good cause, upon motion by a party and notice by the clerk to all affected parties at their last known address, amend the terms and conditions for payment of the judgment to provide for payment by installment. The determination shall be made without regard to the nature of the underlying debt and without regard to whether the moving party appeared before entry of the judgment.
- (c) In determining the terms and conditions of payment, the court may consider any factors which would be relevant to a claim of exemption under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2.

116.630.

The court may, at any time after judgment, for good cause, upon motion by a party and notice by the clerk to all affected parties at their last known address, amend the name of any party to include both the correct legal name and the actually used name or names of that party.

Article 7. Motion to Vacate and Appeal

SECTION 116.710-116.795

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116.710.

- (a) The plaintiff in a small claims action shall have no right to appeal the judgment on the plaintiff's claim, but a plaintiff who did not appear at the hearing may file a motion to vacate the judgment in accordance with Section 116.720.
- (b) The defendant with respect to the plaintiff's claim, and a plaintiff with respect to a claim of the defendant, may appeal the judgment to the superior court in the county in which the action was heard.
- (c) With respect to the plaintiff's claim, the insurer of the defendant may appeal the judgment to the superior court in the county in which the matter was heard if the judgment exceeds two thousand five hundred dollars (\$2,500) and the insurer stipulates that its policy with the defendant covers the matter to which the judgment applies.
- (d) A defendant who did not appear at the hearing has no right to appeal the judgment, but may file a motion to vacate the judgment in accordance with Section 116.730 or 116.740 and also may appeal the denial of that motion.

116.720.

- (a) A plaintiff who did not appear at the hearing in the small claims court may file a motion to vacate the judgment with the clerk of the small claims court. The motion shall be filed within 30 days after the clerk has mailed notice of entry of the judgment to the parties.
- (b) The clerk shall schedule the hearing on the motion to vacate for a date no earlier than 10 days after the clerk has mailed written notice of the date, time, and place of the hearing to the parties.
- (c) Upon a showing of good cause, the small claims court may grant the motion. If the defendant is not present, the court shall hear the motion in the defendant's absence.
- (d) If the motion is granted, and if all parties are present and agree, the court may hear the case without rescheduling it. If the defendant is not present, the judge or clerk shall reschedule the case and give notice in accordance with Section 116.330.

116.725.

- (a) A motion to correct a clerical error in a judgment or to set aside and vacate a judgment on the ground of an incorrect or erroneous legal basis for the decision may be made as follows:
 - (1) By the court on its own motion at any time.
 - (2) By a party within 30 days after the clerk mails notice of entry of judgment to the parties.

- (b) Each party may file only one motion to correct a clerical error or to set aside and vacate the judgment on the ground of an incorrect or erroneous legal basis for the decision.

116.730.

- (a) A defendant who did not appear at the hearing in the small claims court may file a motion to vacate the judgment with the clerk of the small claims court. The motion shall be filed within 30 days after the clerk has mailed notice of entry of the judgment to the parties.
- (b) The defendant shall appear at any hearing on the motion, or submit written justification for not appearing together with a declaration in support of the motion.
- (c) Upon a showing of good cause, the court may grant the motion to vacate the judgment. If the plaintiff is not present, the court shall hear the motion in the plaintiff's absence.
- (d) If the motion is granted, and if all parties are present and agree, the court may hear the case without rescheduling it. If the plaintiff is not present, the judge or clerk shall reschedule the case and give notice in accordance with Section 116.330.
- (e) If the motion is denied, the defendant may appeal to the superior court only on the denial of the motion to vacate the judgment. The defendant shall file the notice of appeal with the clerk of the small claims court within 10 days after the small claims court has mailed or delivered notice of the court's denial of the motion to vacate the judgment.
- (f) If the superior court determines that the defendant's motion to vacate the judgment should have been granted, the superior court may hear the claims of all parties without rescheduling the matter, provided that all parties are present and the defendant has previously complied with this article, or may order the case transferred to the small claims court for a hearing.

116.740.

- (a) If the defendant was not properly served as required by Section 116.330 or 116.340 and did not appear at the hearing in the small claims court, the defendant may file a motion to vacate the judgment with the clerk of the small claims court. The motion shall be accompanied by a supporting declaration, and shall be filed within 180 days after the defendant discovers or should have discovered that judgment was entered against the defendant.
- (b) The court may order that the enforcement of the judgment shall be suspended pending a hearing and determination of the motion to vacate the judgment.
- (c) Upon a showing of good cause, the court may grant the motion to vacate the judgment. If the plaintiff is not present, the court

shall hear the motion in the plaintiff's absence.

- (d) Subdivisions (d), (e), and (f) of Section 116.730 apply to any motion to vacate a judgment.

116.745.

The clerk shall collect a fee of twenty dollars (\$20) for the filing of a motion to vacate.

116.750.

- (a) An appeal from a judgment in a small claims action is taken by filing a notice of appeal with the clerk of the small claims court.
- (b) A notice of appeal shall be filed not later than 30 days after the clerk has delivered or mailed notice of entry of the judgment to the parties. A notice of appeal filed after the 30-day period is ineffective for any purpose.
- (c) The time for filing a notice of appeal is not extended by the filing of a request to correct a mistake or by virtue of any subsequent proceedings on that request, except that a new period for filing notice of appeal shall begin on the delivery or mailing of notice of entry of any modified judgment.

116.760.

- (a) The appealing party shall pay a fee of seventy-five dollars (\$75) for filing a notice of appeal.
- (b) A party who does not appeal shall not be charged any fee for filing any document relating to the appeal.
- (c) The fee shall be distributed as follows:
- (1) To the county law library fund, as provided in Section 6320 of the Business and Professions Code, the amount specified in Section 6321 and 6322.1 of the Business and Professions Code.
 - (2) To the Trial Court Trust Fund, the remainder of the fee.

116.770.

- (a) The appeal to the superior court shall consist of a new hearing before a judicial officer other than the judicial officer who heard the action in the small claims division.
- (b) The hearing on an appeal to the superior court shall be conducted informally. The pretrial discovery procedures described in Section 2019.010 are not permitted, no party has a right to a trial by jury, and no tentative decision or statement of decision is required.
- (c) Article 5 (commencing with Section 116.510) on hearings in the small claims court applies in hearings on appeal in the superior court, except that attorneys may participate.
- (d) The scope of the hearing shall include the claims of all

- parties who were parties to the small claims action at the time the notice of appeal was filed. The hearing shall include the claim of a defendant that was heard in the small claims court.
- (e) The clerk of the superior court shall schedule the hearing for the earliest available time and shall mail written notice of the hearing to the parties at least 14 days prior to the time set for the hearing.
 - (f) The Judicial Council may prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed.

116.780.

- (a) The judgment of the superior court after a hearing on appeal is final and not appealable.
- (b) Article 6 (commencing with Section 116.610) on judgments of the small claims court applies to judgments of the superior court after a hearing on appeal, except as provided in subdivisions (c) and (d).
- (c) For good cause and where necessary to achieve substantial justice between the parties, the superior court may award a party to an appeal reimbursement of (1) attorney's fees actually and reasonably incurred in connection with the appeal, not exceeding one hundred fifty dollars (\$150), and (2) actual loss of earnings and expenses of transportation and lodging actually and reasonably incurred in connection with the appeal, not exceeding one hundred fifty dollars (\$150).

116.790.

If the superior court finds that the appeal was without substantial merit and not based on good faith, but was intended to harass or delay the other party, or to encourage the other party to abandon the claim, the court may award the other party (a) attorney's fees actually and reasonably incurred in connection with the appeal, not exceeding one thousand dollars (\$1,000), and (b) any actual loss of earnings and any expenses of transportation and lodging actually and reasonably incurred in connection with the appeal, not exceeding one thousand dollars (\$1,000), following a hearing on the matter.

116.795.

- (a) The superior court may dismiss the appeal if the appealing party does not appear at the hearing or if the appeal is not heard within one year from the date of filing the notice of appeal with the clerk of the small claims court.
- (b) Upon dismissal of an appeal by the superior court, the small claims court shall thereafter have the same jurisdiction as if no

appeal had been filed.

**Article 8. Satisfaction and Enforcement of
Judgment**

SECTION 116.810-116.880

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116.810.

- (a) Enforcement of the judgment of a small claims court, including the issuance or recording of any abstract of the judgment, is automatically suspended, without the filing of a bond by the defendant, until the expiration of the time for appeal.
- (b) If an appeal is filed as provided in Article 7 (commencing with Section 116.710), enforcement of the judgment of the small claims court is suspended unless (1) the appeal is dismissed by the superior court pursuant to Section 116.795, or (2) the superior court determines that the small claims court properly denied the defendant's motion to vacate filed under Section 116.730 or 116.740. In either of those events, the judgment of the small claims court may be enforced.
- (c) The scope of the suspension of enforcement under this section and, unless otherwise ordered, of any suspension of enforcement ordered by the court, shall include any enforcement procedure described in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174.

116.820.

- (a) The judgment of a small claims court may be enforced as provided in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement of judgments of other courts. A judgment of the superior court after a hearing on appeal, and after transfer to the small claims court under subdivision (d) of Section 116.780, may be enforced like other judgments of the small claims court, as provided in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement of judgments of other courts.
- (b) The clerk of the court shall charge and collect all fees associated with the enforcement of judgments under Title 9 (commencing with Section 680.010) of Part 2. The clerk shall immediately deposit all the fees collected under this section into a bank account established for this purpose by the Administrative Office of the Courts. The money shall be remitted to the State Treasury under rules adopted by, or trial court financial policies and procedures authorized by, the Judicial Council under subdivision (a) of Section 77206 of the Government Code. The Controller shall distribute the fees to the Trial Court Trust Fund as provided in Section 68085.1 of the Government Code.
- (c) The prevailing party in any action subject to this chapter is entitled to the costs of enforcing the judgment and accrued interest.

116.830.

- (a) At the time judgment is rendered, or notice of entry of the judgment is mailed to the parties, the clerk shall deliver or mail to the judgment debtor a form containing questions regarding the nature and location of any assets of the judgment debtor.
- (b) Within 30 days after the clerk has mailed notice of entry of the judgment, unless the judgment has been satisfied, the judgment debtor shall complete the form and cause it to be delivered to the judgment creditor.
- (c) In the event a motion is made to vacate the judgment or a notice of appeal is filed, a judgment debtor shall complete and deliver the form within 30 days after the clerk has delivered or mailed notice of denial of the motion to vacate, or notice of dismissal of or entry of judgment on the appeal, whichever is applicable.
- (d) In case of the judgment debtor's willful failure to comply with subdivision (b) or (c), the judgment creditor may request the court to apply the sanctions, including arrest and attorney's fees, as provided in Section 708.170, on contempt of court.
- (e) The Judicial Council shall approve or adopt the form to be used for the purpose of this section.

116.840.

- (a) At the option of the judgment debtor, payment of the judgment may be made either (1) to the judgment creditor in accordance with Section 116.850, or (2) to the court in which the judgment was entered in accordance with Section 116.860.
- (b) The small claims court may order entry of satisfaction of judgment in accordance with subdivisions (c) and (d) of Section 116.850, or subdivision (b) of Section 116.860.

116.850.

- (a) If full payment of the judgment is made to the judgment creditor or to the judgment creditor's assignee of record, then immediately upon receipt of payment, the judgment creditor or assignee shall file with the clerk of the court an acknowledgment of satisfaction of the judgment.
- (b) Any judgment creditor or assignee of record who, after receiving full payment of the judgment and written demand by the judgment debtor, fails without good cause to execute and file an acknowledgment of satisfaction of the judgment with the clerk of the court in which the judgment is entered within 14 days after receiving the request, is liable to the judgment debtor or the judgment debtor's grantees or heirs for all damages sustained by reason of the failure and, in addition, the sum of fifty dollars (\$50).
- (c) The clerk of the court shall enter a satisfaction of judgment

- at the request of the judgment debtor if the judgment debtor either (1) establishes a rebuttable presumption of full payment under subdivision (d), or (2) establishes a rebuttable presumption of partial payment under subdivision (d) and complies with subdivision (c) of Section 116.860.
- (d) A rebuttable presumption of full or partial payment of the judgment, whichever is applicable, is created if the judgment debtor files both of the following with the clerk of the court in which the judgment was entered:
- (1) Either a canceled check or money order for the full or partial amount of the judgment written by the judgment debtor after judgment and made payable to and endorsed by the judgment creditor, or a cash receipt for the full or partial amount of the judgment written by the judgment debtor after judgment and signed by the judgment creditor.
 - (2) A declaration stating that (A) the judgment debtor has made full or partial payment of the judgment including accrued interest and costs; (B) the judgment creditor has been requested to file an acknowledgment of satisfaction of the judgment and refuses to do so, or refuses to accept subsequent payments, or the present address of the judgment creditor is unknown; and (C) the documents identified in and accompanying the declaration constitute evidence of the judgment creditor's receipt of full or partial payment.

116.860.

- (a) A judgment debtor who desires to make payment to the court in which the judgment was entered may file a request to make payment, which shall be made on a form approved or adopted by the Judicial Council.
- (b) Upon the filing of the request to make payment and the payment to the clerk of the amount of the judgment and any accrued interest and costs after judgment, plus any required fee authorized by this section, the clerk shall enter satisfaction of the judgment and shall remit payment to the judgment creditor as provided in this section.
- (c) If partial payment of the judgment has been made to the judgment creditor, and the judgment debtor files the declaration and evidence of partial payment described in subdivision (d) of Section 116.850, the clerk shall enter satisfaction of the judgment upon receipt by the clerk of the balance owing on the judgment, including any accrued interest and costs after judgment, and the fee required by this section.
- (d) If payment is made by means other than money order, certified or cashier's check, or cash, entry of satisfaction of the judgment shall be delayed for 30 days.
- (e) The clerk shall notify the judgment creditor, at his or her last known address, that the judgment debtor has satisfied the

judgment by making payment to the court. The notification shall explain the procedures which the judgment creditor has to follow to receive payment.

- (f) For purposes of this section, "costs after judgment" consist of only those costs itemized in a memorandum of costs filed by the judgment creditor or otherwise authorized by the court.
- (g) Payments that remain unclaimed for three years shall go to the superior court pursuant to Section 68084.1 of the Government Code.
- (h) A fee of twenty dollars (\$20) shall be paid by the judgment debtor for the costs of administering this section.

116.870.

Sections 16250 to 16381, inclusive, of the Vehicle Code, regarding the suspension of the judgment debtor's privilege to operate a motor vehicle for failing to satisfy a judgment, apply if the judgment (1) was for damage to property in excess of seven hundred fifty dollars (\$750) or for bodily injury to, or death of, a person in any amount, and (2) resulted from the operation of a motor vehicle upon a California highway by the defendant, or by any other person for whose conduct the defendant was liable, unless the liability resulted from the defendant's signing the application of a minor for a driver's license.

116.880.

- (a) If the judgment (1) was for seven hundred fifty dollars (\$750) or less, (2) resulted from a motor vehicle accident occurring on a California highway caused by the defendant's operation of a motor vehicle, and (3) has remained unsatisfied for more than 90 days after the judgment became final, the judgment creditor may file with the Department of Motor Vehicles a notice requesting a suspension of the judgment debtor's privilege to operate a motor vehicle.
- (b) The notice shall state that the judgment has not been satisfied, and shall be accompanied by (1) a fee set by the department, (2) the judgment of the court determining that the judgment resulted from a motor vehicle accident occurring on a California highway caused by the judgment debtor's operation of a motor vehicle, and (3) a declaration that the judgment has not been satisfied. The fee shall be used by the department to finance the costs of administering this section and may not exceed the department's actual costs.
- (c) Upon receipt of a notice, the department shall attempt to notify the judgment debtor by telephone, if possible, otherwise by certified mail, that the judgment debtor's privilege to operate a motor vehicle will be suspended for a period of 90 days, beginning 20 days after receipt of notice by the department from the judgment

- creditor, unless satisfactory proof, as provided in subdivision (e), is provided to the department before that date.
- (d) At the time the notice is filed, the department shall give the judgment creditor a copy of the notice that shall indicate the filing fee paid by the judgment creditor, and shall include a space to be signed by the judgment creditor acknowledging payment of the judgment by the judgment debtor. The judgment creditor shall mail or deliver a signed copy of the acknowledgment to the judgment debtor once the judgment is satisfied.
 - (e) The department shall terminate the suspension, or the suspension proceedings, upon the occurrence of one or more of the following:
 - (1) Receipt of proof that the judgment has been satisfied, either (A) by a copy of the notice required by this section signed by the judgment creditor acknowledging satisfaction of the judgment, or (B) by a declaration of the judgment debtor stating that the judgment has been satisfied.
 - (2) Receipt of proof that the judgment debtor is complying with a court-ordered payment schedule.
 - (3) Proof that the judgment debtor had insurance covering the accident sufficient to satisfy the judgment.
 - (4) A deposit with the department of the amount of the unsatisfied judgment, if the judgment debtor presents proof, satisfactory to the department, of inability to locate the judgment creditor.
 - (5) At the end of 90 days.
 - (f) When the suspension has been terminated under subdivision (e), the action is final and may not be reinstated. Whenever the suspension is terminated, Section 14904 of the Vehicle Code shall apply. Money deposited with the department under this section shall be handled in the same manner as money deposited under subdivision (d) of Section 16377 of the Vehicle Code.
 - (g) A public agency is not liable for an injury caused by the suspension, termination of suspension, or the failure to suspend a person's privilege to operate a motor vehicle as authorized by this section.
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Article 9. Administration
SECTION 116.920-116.950

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116.920.

- (a) The Judicial Council shall provide by rule for the practice and procedure and for the forms and their use in small claims actions. The rules and forms so adopted shall be consistent with this chapter.
- (b) The Judicial Council, in consultation with the Department of Consumer Affairs, shall adopt rules to ensure that litigants receive adequate notice of the availability of assistance from small claims advisors, to prescribe other qualifications and the conduct of advisors, to prescribe training standards for advisors and for temporary judges hearing small claims matters, to prescribe, where appropriate, uniform rules and procedures regarding small claims actions and judgments, and to address other matters that are deemed necessary and appropriate.

116.930.

- (a) Each small claims division shall provide in each courtroom in which small claims actions are heard a current copy of a publication describing small claims court law and the procedures that are applicable in the small claims courts, including the law and procedures that apply to the enforcement of judgments. The Small Claims Court and Consumer Law California Judge's Bench Book developed by the California Center for Judicial Education and Research is illustrative of a publication that satisfies the requirement of this subdivision.
- (b) Each small claims division may formulate and distribute to litigants and the public a manual on small claims court rules and procedures. The manual shall explain how to complete the necessary forms, how to determine the proper court in which small claims actions may be filed, how to present and defend against claims, how to appeal, how to enforce a judgment, how to protect property that is exempt from execution, and such other matters that the court deems necessary or desirable.
- (c) If the Department of Consumer Affairs determines there are sufficient private or public funds available in addition to the funds available within the department's current budget, the department, in cooperation with the Judicial Council, shall prepare a manual or information booklet on small claims court rules and procedures. The department shall distribute copies to the general public and to each small claims division.
- (d) If funding is available, the Judicial Council, in cooperation with the Department of Consumer Affairs, shall prepare and distribute to each judge who sits in a small claims court a bench book describing all state and federal consumer protection laws reasonably

likely to apply in small claims actions.

116.940.

- (a) Except as otherwise provided in this section or in rules adopted by the Judicial Council, which are consistent with the requirements of this section, the characteristics of the small claims advisory service required by Section 116.260 shall be determined by each county in accordance with local needs and conditions.
- (b) Each advisory service shall provide the following services:
 - (1) Individual personal advisory services, in person or by telephone, and by any other means reasonably calculated to provide timely and appropriate assistance. The topics covered by individual personal advisory services shall include, but not be limited to, preparation of small claims court filings, procedures, including procedures related to the conduct of the hearing, and information on the collection of small claims court judgments.
 - (2) Recorded telephone messages may be used to supplement the individual personal advisory services, but shall not be the sole means of providing advice available in the county.
 - (3) Adjacent counties may provide advisory services jointly.
- (c) In any county in which the number of small claims actions filed annually is 1,000 or less as averaged over the immediately preceding two fiscal years, the county may elect to exempt itself from the requirements set forth in subdivision (b). This exemption shall be formally noticed through the adoption of a resolution by the board of supervisors. If a county so exempts itself, the county shall nevertheless provide the following minimum advisory services in accordance with rules adopted by the Judicial Council:
 - (1) Recorded telephone messages providing general information relating to small claims actions filed in the county shall be provided during regular business hours.
 - (2) Small claims information booklets shall be provided in the court clerk's office of each superior court, the county administrator's office, other appropriate county offices, and in any other location that is convenient to prospective small claims litigants in the county.
- (d) The advisory service shall operate in conjunction and cooperation with the small claims division, and shall be administered so as to avoid the existence or appearance of a conflict of interest between the individuals providing the advisory services and any party to a particular small claims action or any judicial officer deciding small claims actions.
- (e) Advisers may be volunteers, and shall be members of the State Bar, law students, paralegals, or persons experienced in resolving minor disputes, and shall be familiar with small claims court rules and procedures. Advisers may not appear in court as an advocate for

any party.

- (f) Advisers, including independent contractors, other employees, and volunteers have the immunity conferred by Section 818.9 of the Government Code with respect to advice provided as a public service on behalf of a court or county to small claims litigants and potential litigants under this chapter.

116.950.

- (a) This section shall become operative only if the Department of Consumer Affairs determines that sufficient private or public funds are available in addition to the funds available in the department's current budget to cover the costs of implementing this section.
 - (b) There shall be established an advisory committee, constituted as set forth in this section, to study small claims practice and procedure, with particular attention given to the improvement of procedures for the enforcement of judgments.
 - (c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.
 - (d) The advisory committee shall be composed as follows:
 - (1) The Attorney General or a representative.
 - (2) Two consumer representatives from consumer groups or agencies, appointed by the Secretary of the State and Consumer Services Agency.
 - (3) One representative appointed by the Speaker of the Assembly and one representative appointed by the President pro Tempore of the Senate.
 - (4) Two representatives appointed by the Board of Governors of the State Bar.
 - (5) Two representatives of the business community, appointed by the Secretary of Technology, Trade, and Commerce.
 - (6) Six judicial officers who have extensive experience presiding in small claims court, appointed by the Judicial Council. Judicial officers appointed under this subdivision may include judicial officers of the superior court, judges of the appellate courts, retired judicial officers, and temporary judges.
 - (7) One representative appointed by the Governor.
 - (8) Two clerks of the court appointed by the Judicial Council.
 - (e) Staff assistance to the advisory committee shall be provided by the Department of Consumer Affairs, with the assistance of the Judicial Council, as needed.
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California Rules of Court: Title Three.
Civil Rules. Divisions 21 Rules for Small Claims
Actions. “Chapter 1. Trial Rules” and “Chapter
2. Small Claims Advisors) (Rules 3.2100-3.2120)

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3.2100. Compliance with fictitious business name laws

(a) Filing of declaration of compliance

A claimant who is required to file a declaration of compliance with the fictitious business name laws under Code of Civil Procedure section 116.430 must file the declaration in each case filed.

(Subd (a) amended and lettered effective January 1, 2007; adopted as untitled subd effective January 1, 1986.)

(b) Available methods

The clerk must make the declaration of compliance available to the claimant in any one of the following ways:

- (1) The declaration of compliance may be placed on a separate form approved by the Judicial Council;
- (2) The approved Judicial Council form may be placed on the reverse of the Plaintiff's Statement to the Clerk or on the back of any Judicial Council small claims form with only one side; or
- (3) The precise language of the declaration of compliance that appears on the approved Judicial Council form may be incorporated into the Plaintiff's Statement to the Clerk.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1986.)

Rule 3.2100 amended and renumbered effective January 1, 2007; adopted as rule 1701 effective January 1, 1986; previously amended effective July 1, 1991.

3.2102. Substituted service

If substituted service is authorized by Code of Civil Procedure section 116.340 or other provisions of law, no due diligence is required in a small claims court action.

Rule 3.2102 renumbered effective January 1, 2007; adopted as rule 1702 effective July 1, 1991.

3.2104. Defendant's claim

A defendant may file a claim against the plaintiff even if the claim does not relate to the same subject or event as the plaintiff's claim, so long as the claim is within the jurisdictional limit of the small claims court.

Rule 3.2104 renumbered effective January 1, 2007; adopted as rule 1703 effective July 1, 1991.

3.2106. Venue Challenge

A defendant may challenge venue by writing to the court. The defendant is not required to personally appear at the hearing on the venue challenge. If the court denies the challenge and the defendant is not present, the hearing must be continued to another appropriate date. The parties must be given notice of the venue determination and hearing date.

Rule 3.2106 amended and renumbered effective January 1, 2007; adopted as rule 1704 effective July 1, 1991.

3.2107. Request for court order

(a) Request before trial

If a party files a written request for a court order before the hearing on the claim, the requesting party must mail or personally deliver a copy to all other parties in the case. The other parties must be given an opportunity to answer or respond to the request before or at the hearing. This subdivision does not apply to a request to postpone the hearing date if the plaintiff's claim has not been served.

(b) Request after trial

If a party files a written request for a court order after notice of entry of judgment, the clerk must mail a copy of the request to all other parties in the action. A party has 10 calendar days from the date on which the clerk mailed the request to file a response before the court makes an order. The court may schedule a hearing on the request, except that if the request is to vacate the judgment for lack of appearance by the plaintiff, the court must hold a hearing. The court may give notice of any scheduled hearing with notice of the request, but the hearing must be scheduled at least 11 calendar days after the clerk has mailed the request.

Rule 3.2107 adopted effective January 1, 2007.

3.2108. Form of judgment

The court may give judgment for damages, equitable relief, or both, and may make other orders as the court deems just and equitable for the resolution of the dispute. If specific property is referred to in the judgment, whether it be personal or real, tangible or intangible, the property must be identified with sufficient detail to permit efficient implementation or enforcement of the judgment.

Rule 3.2108 amended and renumbered effective January 1, 2007; adopted as rule 1705 effective July 1, 1991.

3.2110. Role of clerk in assisting small claims litigants

(a) Provision of forms and pamphlets

The clerk must provide forms and pamphlets from the Judicial Council.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

(b) Provision of Department of Consumer Affairs materials

The clerk must provide materials from the Department of Consumer Affairs when available.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

(c) Information about small claims advisory service

The clerk must inform litigants of the small claims advisory service.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

(d) Answering questions

The clerk may answer questions relative to filing and service of the claim, designation of the parties, scheduling of hearings, and similar matters.

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

Rule 3.2110 amended and renumbered effective January 1, 2007; adopted as rule 1706 effective July 1, 1991.

3.2120. Advisor assistance

(a) Notice to parties

The clerk must inform the parties, orally or in writing, about:

- (1) The availability of advisors to assist small claims litigants at no additional charge as provided in Code of Civil Procedure sections 116.260 and 116.940,; and
- (2) The provisions of Government Code section 818.9.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1991.)

(b) Training

All small claims advisors must receive training sufficient to ensure competence in the areas of:

- (1) Small claims court practice and procedure;
- (2) Alternative dispute resolution programs;
- (3) Consumer sales;
- (4) Vehicular sales, leasing, and repairs;
- (5) Credit and financing transactions;
- (6) Professional and occupational licensing;
- (7) Landlord-tenant law; and
- (8) Contract, warranty, tort, and negotiable instruments law.

It is the intent of this rule that the county must provide this training.

(Subd (b) amended effective January 1, 2007; previously repealed and adopted effective July 1, 1991.)

(c) Qualifications

In addition to the training required in subdivision (b), each county may establish additional qualifications for small claims advisors.

(Subd (c) adopted effective July 1, 1991.)

(d) Conflict of interest

A small claims advisor must disclose any known direct or indirect relationship the advisor may have with any party or witness in the action. An advisor must not disclose information obtained in the course of the advisor's duties or use the information for financial or other advantage.

(Subd (d) amended effective January 1, 2007; adopted as subd (c); previously relettered effective July 1, 1991.)

Rule 3.2120 amended and renumbered effective January 1, 2007; adopted as rule 1725 effective January 1, 1986; previously amended effective July 1, 1991.

**Superior Court of Orange County Local Rules of
Court: Division 3. Civil Rules. Chapter 3 Small
Claims (Rule 341-348)**

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Rule 340. Renumbered effective July 1, 2009

(Rule 340 renumbered as Rule 353)

Rule 341. Small Claims – Return of Service

A small claims case is commenced by the filing of a Plaintiff's Claim and ORDER to Go to Small Claims Court and the scheduling by the clerk of a hearing date. Plaintiff must file proof of service on the defendant in the Clerk's Office at least five calendar days before the hearing or the case may be dismissed.

(Rule 341 revised and renumbered effective July 1, 2009; renumbered as Rule 320 effective July 1, 1998)

Rule 342. Renumbered effective July 1, 2009

(Rule 342 renumbered as Rule 355)

Rule 343. Delay Reduction – Small Claims

A. Plaintiff's failure to appear at the scheduled hearing may result in the case being dismissed.

B. If the defendant is not served, the Clerk's Office will reset the case once. Any request for resetting must be done at least three court days before the original hearing date.

(Rule 343 revised and renumbered effective July 1, 2009; renumbered as Rule 354 effective July 1, 1998; revised effective July 1, 1999, July 1, 2003)

Rule 344. Renumbered effective July 1, 2009

(Rule 344 renumbered as Rule 356)

Rule 345. Small Claims – Exhibits

Exhibits in small claims cases will be returned to the proffering party at the hearing unless the court finds good cause and orders that the exhibit(s) be retained by the court.

(Rule 345 revised and renumbered effective July 1, 2009; renumbered as Rule 322 effective July 1, 1998)

Rule 346. Renumbered effective July 1, 2009

(Rule 346 renumbered as Rule 371)

Rule 348. Renumbered effective July 1, 2009

(Rule 348 renumbered as Rule 321)
