

Everything You Wanted To Know About Small Claims *By Howard Sobel*

Small claims court offers a useful but underutilized way for small property owners to resolve monetary disputes with renters. Here's an overview of how the system works and how best to use it to your advantage.

Some Important Facts about Filing a Claim In Small Claims Court

You represent yourself. No attorney is required, so it's a low-cost solution for small-dollar disputes.

Good documentation is key. Bring all documentation and supporting evidence:

- Provide a good contract/lease to prove your complaint is valid and was contractually agreed upon.
- Provide written communications, such as letters or e-mails to document your case.
- Provide photos. Digital photos provide excellent documentation and can help the judge visualize the problem. Photos taken at both the move-in and the move-out inspection will convincingly document any damage done by the renter.
- Make your case before the judge. Do your home-work by establishing the sequence of events and putting your documents in that order. Relax and explain to the judge why you feel you are right.

The Judgment

If the court decides in your favor, the renter/defendant can appeal. If he/she makes no appeal within the allotted time, you can then try to collect the judgment. The owner/plaintiff cannot appeal if the court decides in the renter's favor.

Getting Paid

Once a judgment has been made in your favor, send a copy to the renter. You may require payment in full, or payment in installments.

Record the Judgment

If the renter fails to pay the judgment, you may record it. Recording is not mandatory but usually a wise step as it places the judgment in the public record for all to see. Do this not to be spiteful, but because the severity of an outstanding lien against the renter and documentation with credit reporting agencies is often just the leverage you need to collect the judgment.

[Editor's Note: You may also want to file an abstract of judgment. The purpose of an abstract of judgment is to create a public record and create a lien or claim if necessary on any real estate property owned or later acquired by the defendant located in the county in which the abstract of judgment is recorded. If the loser does not pay the judgment voluntarily then the winner can force a sheriff's sale of any property to collect.]

Debt Collection

Unable or unwilling to collect the debt yourself? Consider a debt collection agency.

Limits on Amount and Number of Claims

Each state sets its own limit for the amount that can be brought before a small claims court. In California, the limit for individual claimants is \$7,500. An individual can file any number of claims a year for up to \$2,500 each, but one can only file two claims in a calendar year that ask for more than \$2,500.

Time Limits on Filing Small Claims in California

- If you were injured: you can file a claim for up to two years after the act.
- If a verbal agreement was broken: you have two years to file after the act.
- If your property was damaged: you have three years to file after the damage.
- If you are suing for fraud: if you lost money because a renter lied to you or defrauded you, you have three years to file after you discover the fraud.

When Should You Consult an Attorney?

Saul Ferster, an attorney specializing in representing San Francisco property owners, offers this advice about when consulting an attorney is appropriate: “If you want to evict a renter, or alter his/her conduct, consult an attorney. Also, if your dispute is with someone you don’t recognize as an ‘original occupant’ under the Rent Ordinance, consult an attorney to avoid inadvertently making him/her an original occupant in small claims action.

Finally, small claims court is practical *only* when your judgment is collectable. If the renter can’t pay the rent owed, it is better to evict than to obtain an unenforceable judgment. Going to small claims court first would probably bar you from evicting the tenant for nonpayment of the same rent.”

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