6-06/000.00 Small Claims

6-06/100.00 Writ of Attachment Prohibited

6-06/100.10 Court Structure

6-06/100.20 Discovery Prohibited

6-06/100.30 Informal Hearing

6-06/100.40 Jurisdiction

6-06/100.50 Limit on Filings

6-06/100.60 Transfer to Superior Court

6-06/110.00 Advice to Litigants

6-06/120.00 Immunity for Giving Advice

6-06/130.00 Parties

6-06/140.00 Assigned Claims

6-06/200.00 Fictitious Business Name

6-06/210.00 Legal Name Determination by Court

6-06/220.00 Amendment of Name

6-06/300.00 Plaintiff's Claim and Order to go to Small Claims Court

6-06/300.10 Scheduling of Hearing by Clerk

6-06/400.00 Service of Plaintiff's Claim

6-06/400.10 Untimely Service of Plaintiff's Claim

6-06/400.20 Defendant's Claim and Order to go to Small Claims Court

6-06/500.00 Attorneys Barred from Hearing

6-06/500.10 Appearance by Third Party

6-06/500.20 Interpreter

6-06/500.30 Appeal Rights

6-06/600.00 Failure of Plaintiff to Appear

6-06/600.10 Failure of Defendant to Appear

6-06/600.20 Clerical Error

6-06/600.30 Defective Service on Defendant

6-06/700.00 Appeal Procedure

6-06/800.00 Judgment

6-06/800.10 Installment Payments

6-06/800.20 Declaration of Debtor's Assets

6-06/900.00 Stay Pending Appeal

6-06/900.10 Satisfaction of Judgment

6-06/900.20 Payment to Court

6-06/900.30 Driver's License Suspension

References

CCP – Code of Civil Procedure

CIV – Civil Code

GC – Government Code

VEH – Vehicle Code

Updated July 28, 2020

Edited November 17, 2020

• 6-06/100.00 Writ of Attachment Prohibited

A prejudgment writ of attachment cannot issue in a small claims case**. (**CCP 116.140)

• • 6-06/100.10 Court Structure

An attorney (temporary judge) may hear a small claims case with the consent of the parties. There shall be least one night session or Saturday session in courts with seven or more judicial officers. (CCP 116.240) (CCP 116.250)

• • 6-06/100.20 Discovery Prohibited

Formal discovery is prohibited in small claims court. (CCP 116.310)

• • 6-06/100.30 Informal Hearing

Small claims hearings shall be informal and witnesses are permitted to testify. The plaintiff shall prove the claim even if the defendant fails to appear for hearing. (CCP 116.510) (CCP 116.520)

• • 6-06/100.40 Jurisdiction

A natural person may sue for not more than $10,000. An artificial person may sue for not more than $5,000 including a writ of possession to enforce an innkeeper's lien. The court may grant equitable relief (rescission, restitution, reformation, and specific performance) as well as money damages. The court may also issue a conditional judgment. (CCP 116.220) (CCP 116.221)

• • 6-06/100.50 Limit on Filings

In general, a person may not file more than two small claims actions for more than $2,500 in any calendar year. (CCP 116.231)

• • 6-06/100.60 Transfer to Superior Court

A small claims case may be transferred to the superior court if the defendant's claim exceeds the jurisdiction of the small claims court. (CCP 116.390)

• 6-06/110.00 Advice to Litigants

Each county shall provide advisory assistance to small claims litigants without charge. Los Angeles County Consumer & Business Affairs provides a Small Claims Advisor Service: dcba.lacounty.gov/small-claims. (CCP 116.260)

• 6-06/120.00 Immunity for Giving Advice

A public entity and its employees shall not be liable for giving advice on small claims court procedures. (GC 818.9)

• 6-06/130.00 Parties

Anyone at least 18 years old, or legally emancipated, and mentally competent may be a party in a small claims action. Otherwise, the court must appoint a guardian ad litem. (CCP 116.410)

• 6-06/140.00 Assigned Claims

The assignee of a claim cannot sue in small courts court with certain exceptions, e.g., retail installment contract, automobile sales contract, security agreement. (**CCP 116.420**)

• 6-06/200.00 Fictitious Business Name

The court shall dismiss a small claims case without prejudice if the plaintiff operates a business under a fictitious business name and has not filed a fictitious business name statement. (**CCP 116.430**)

• • 6-06/210.00 Legal Name Determination by Court

The court shall ascertain the correct legal name of the defendant and may amend a judgment to correct the defendant's legal name. (CCP 116.560)

• • 6-06/220.00 Amendment of Name

An amendment of the debtor's name must be made by the superior court if the judgment was

appealed from small claims court to the superior court. (CCP 116.630) (Issa v Alzammar 38 CA App 4th Supp 1, 1995)

• 6-06/300.00 Plaintiffâ€™s Claim and Order to go to Small Claims Court

A plaintiff commences small claims action by filing a form prescribed by the Judicial Council with the clerk of the small claims court. (CCP 116.320)

• • 6-06/300.10 Scheduling of Hearing by Clerk

The clerk of the small claims court shall schedule a hearing for no earlier than 20 days and no later than 70 days. (CCP 116.330)

• 6-06/400.00 Service of Plaintiffâ€™s Claim and Order to go to Small Claims Court

A Plaintiff's Claim and Order to go to Small Claims Court may be served by: personal service (CCP 415.10), substitute service without due diligence or service on the defendant's agent in the sheriff's office and mailing to the defendant (CCP 415.20), or service by the Clerk by certified mail. Service must be completed at least 15 days before the hearing if made within the county in which the hearing is scheduled. Otherwise, service must be completed at least 20 days before the hearing if made outside the county. The time for service is extended by 10 days for mailing if service is by substitution. Service on the agent of an individual defendant is not authorized by CCP 416.90. For purposes of service of small claims process, service on an agent of a defendant is considered substitute service. (CCP 116.340) Service of a Plaintiff's Claim and Order to go to Small Claims Court on an artificial person is served in the same manner as a summons, see 5-07/500.00 Service of Summons. However, there is no method of ascertaining capacity as with a summons. Only the party listed as a defendant in the Plaintiff's Claim and Order to go to Small Claims Court can be served. No alteration of the claim is allowed.

• • 6-06/400.10 Untimely Service of Claim of Plaintiff

If service of the plaintiff's claim on the defendant is not timely completed within the required number of days before the hearing date, the court may postpone the hearing. Unless provision has been made to ensure that the plaintiff will receive timely notice of the service and the certificate of service is filed with the court in time for the hearing, service should not be attempted

under this provision. (CCP 116.570)

• • 6-06/400.20 Defendantâ€™s Claim and Order to Go to Small Claims Court

A Defendant's Claim and Order to Go to Small Claims Court is served in the same manner as a Plaintiff's Claim and Order to go to Small Claims Court (6-06/400.00). However, the claim must be served at least five days before the hearing instead of 15 days before the hearing. If the defendant was served with the Claim of Plaintiff ten days or less before the hearing, the Claim of Defendant may be served on the plaintiff at least one day before the hearing. (CCP 116.360)

• 6-06/500.10 Appearance by Third Party

In general, a third party cannot appear on behalf of the plaintiff or defendant at the small claims hearing.

(CCP 116.540)

• 6-06/500.20 Interpreter

The court may permit an individual to interpret for a party who does not speak English. (CIV 54.8)

• 6-06/500.30 Appeal Rights

The plaintiff cannot appeal a small claims judgment. The defendant may appeal to the superior court. A plaintiff or defendant who fails to appear at the hearing may file a motion to vacate the judgment. The defendant may appeal the denial of the defendant's motion to vacate. (CCP 116.710)

• 6-06/600.00 Failure of Plaintiff to Appear

The plaintiff must file a motion to vacate the judgment no later than 30 days after mailing of the entry of judgment if the plaintiff failed to appear at the small claims hearing. (CCP 116.720)

• • 6-06/600.10 Failure of Defendant to Appear

The defendant must file a motion to vacate a default judgment no later than 30 days after mailing of the entry of judgment if the defendant failed to appear at the small claims hearing. The defendant may appeal the denial of the motion to vacate to the superior court. (CCP 116.730)

• • 6-06/600.20 Clerical Error

Each party may file one motion to correct a clerical error or legally incorrect or erroneous judgment within 30 days after mailing of the entry of judgment. (CCP 116.725)

• • 6-06/600.30 Defective Service on Defendant

The defendant may file a motion to vacate the judgment within 180 days after discovery of the judgment if the defendant was not properly served. (CCP 116.740)

• 6-06/700.00 Appeal Procedure

An appeal from a small claims judgment must be filed no later than 30 days after service of notice of entry of judgment. (CCP 116.750) The matter is tried anew (de novo) in the superior court. (CCP 116.770) The judgment is not appealable. Attorney fees and lost wages may not exceed $150 each. (CCP 116.780)

• 6-06/800.00 Judgment

The small claims court may render a judgment for damages and/or equitable relief plus costs and may order time payments. The clerk shall promptly deliver or mail notice of entry of judgment to all parties. (CCP 116.610)

• • 6-06/800.10 Installment Payments

A judgment is payable immediately or in installments as ordered by the court. (CCP 116.620)

• • 6-06/800.20 Declaration of Debtorâ€™s Assets

The court clerk shall deliver to the judgment debtor a Judgment Debtor’s Statement of Assets form (SC-133) at the time of judgment or when mailing the Notice of Judgment. The form contains questions regarding the nature and location of his/her assets. (CCP 116.830) An Application and Order for Appearance and Examination (AT-137/EJ-125) for examination of judgment debtor is commonly used to ascertain the assets of the judgment debtor if the judgment debtor fails to

satisfy the judgment pursuant to CCP 708.110.

• 6-06/900.00 Stay Pending Appeal

The enforcement of a small claims judgment is automatically stayed for 30 days or until the time to appeal expires or until any appeal is determined. (CCP 116.750) (CCP 116.810)

• • 6-06/900.10 Satisfaction of Judgment

The judgment creditor shall immediately file with the clerk an acknowledgment of satisfaction of judgment when paid by the judgment debtor. The judgment debtor may also file with the clerk a canceled check or money order and a declaration stating the payment has been made to the judgment creditor. (CCP 116.850)

• • 6-06/900.20 Payment to Court

The judgment debtor may pay the judgment to the clerk of court. (CCP 116.840)

• • 6-06/900.30 Driverâ€™s License Suspension

The judgment debtor’s driver’s license can be suspended for non-payment of a judgment exceeding $1,000 and stemming from the operation of a motor vehicle. (CCP 116.870) (VEH 16370 – 16381) (CCP 116.880)