

SMALL CLAIMS HOW TO APPEAL

To appeal you must have been a DEFENDANT who appeared at the hearing, and you must have LOST your suit or you were a PLAINTIFF that was countersued by the defendant and lost the countersuit.

PLAINTIFF CANNOT APPEAL IF THERE WAS NO COUNTERSUIT

In the Plaintiff's Claim and Order to Defendant (Form SC-100) the Plaintiff acknowledged that he/she will not have the right to an appeal, unless there is a countersuit. (Code of Civil Procedure, Section 116.750)

NOTICE OF APPEAL

The Notice of Appeal asks the Court to hear the case anew. Any judge or commissioner can hear the appeal, except the original trial judge. Both parties must return to court and present their cases all over again as if the first trial never took place.

- The defendant must file a Notice of Appeal (SC 140) within 30 days of the day the Court Clerk mails the "Notice of Entry of Judgment." (The date of mailing will appear on the "Notice of Entry of Judgment").

HOW TO APPEAL

1. You can get the "Notice of Appeal" (SC 140) from any Justice Center in Orange County or you can download it from our website, www.ocsmallclaims.com (See Getting Forms From the Internet below).
2. Once you prepare the Notice of Appeal, you file it (within 30 days of the date of mailing) with the same Justice Center in which the original claim was filed.
3. Pay the filing fee
4. The clerk will send a notice of the court date to the other party at least 14 days prior to the hearing

WHAT TO EXPECT AT THE APPEAL HEARING

Both parties must return to the Justice Center on the hearing date. If one of the parties is not present, they could lose the case by default. Even the party who won the small claims suit could lose by default. The Judge will hear the case all over again. You must present your case as if your first trial had never happened. You must bring your witnesses, evidence and anything else which will help you present your case.

At the appeal level both parties are allowed legal representation.

GETTING FORMS FROM THE INTERNET

How to download the Notice of Appeal from the Internet

1. The web page is www.ocsmallclaims.com
2. Click on "Tools"
3. Click on "All Forms"
4. Click on "SC 140" (Notice of Appeal (Small Claims))

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Produced by the Small Claims Court Advisory Program of the Legal Aid Society of Orange County
Phone (714) 571-5277 Website (<http://www.ocsmallclaims.com/>)