

## SMALL CLAIMS GLOSSARY OF TERMS

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**Abstract of Judgment** — A document issued by the clerk of the court. When recorded at the county recorder, it places a lien on any real property owned by the judgment debtor in that county.

**Acknowledgment of Satisfaction of Judgment** — A form that the judgment creditor must complete, sign, and file with the court when the judgment is fully paid.

**Appeal** — New hearing of all of the claims by the Superior Court of the state.

**Application for Waiver of Court Fees and Costs** — A form to be completed by a party who desires the court to waive the filing fee or court mailing costs.

**Assignee** — A person or business that stands in the place of the original creditor, such as a collection agency. Assignees can't sue in small claims court.

**Bank Levy** — Enforcement of a judgment against the judgment debtor's checking or savings account at a bank, savings association, credit union, or other financial institution.

**Claim of Exemption** — A document filed by the judgment debtor that lists the property that the judgment debtor claims is exempt and therefore can't be taken to pay the judgment.

**Claim Splitting** — Dividing a claim and filing two lawsuits to stay below the limits on amounts of claims. Claim splitting is prohibited.

**Costs (or court costs)** — Certain fees and charges a party pays to file and present a case or to enforce a judgment.

**Cross claim** — A demand by the defendant against the plaintiff. The cross claim is usually heard at the same hearing as the plaintiff's claim, and need not relate to the plaintiff's claim.

**Damages** — Money claimed or awarded in court, equal to the dollar value of the claimant's losses.

**Default** — Failure of a party to the lawsuit to attend the small claims court hearing. If the party was properly notified of the action (served), the judge may hear and decide the case without hearing the absent party's side.

**Default Judgment** — A decision entered when one party doesn't attend the small claims court hearing. The other party must still prove his or her claim.

**Defendant** — The person being sued.

**Defendant's Claim and Order to Plaintiff** — The form filed by a defendant who asserts a claim against the plaintiff.

**Defense** — The defendant's facts or arguments that demonstrate why the plaintiff isn't entitled to the relief requested

**Dismiss with Prejudice** — To set aside the present action and deny the right to file another suit on that claim.

**Dismiss without Prejudice** — To set aside the present action but leave open the possibility of another suit on the same claim.

**Enforce** — To put the judgment into effect by taking legal steps to bring about compliance.

**Exempt assets** — Property of a judgment debtor that is legally protected (See Claim of Exemption).

**Fictitious Business Name Declaration** — A form stating that the business has complied with California's fictitious business name registration laws (SC-103).

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**Good Cause** — A sufficient reason for not following court protocol. For example, a party must have good cause for not attending the small claims court hearing (better than not having a car or not being able to find a baby sitter).

**Guardian Ad Litem** — A person appointed by the court to represent a minor (under 18 years old). The representative is usually the minor's parent. A guardian may also represent a person who is mentally incompetent.

**Guarantor** — An individual or company that has agreed to be responsible for the acts or omissions of another.

**Judgment** — The decision of the judge. It states the amount that the judgment debtor owes the judgment creditor and may also include other terms such as the date when payment must be made.

**Judgment Creditor** — The party (may be the plaintiff or the defendant) in whose favor a judgment has been awarded.

**Judgment Debtor** — The party (may be the plaintiff or the defendant) against whom the judgment has been entered.

**Judgment Debtor's Statement of Assets** — The form listing the judgment debtor's assets and sources of income. The judgment debtor must complete and send this form to the judgment creditor within 30 days after receiving notice of the court's decision.

**Jurisdictional Limit** — The maximum monetary amount that may be awarded by the small claims court. The limit is \$7,500 for most claims, but a claimant can't file more than two small claims court actions for more than \$2,500 anywhere in the state during any calendar year.

**Keeper** — A judgment enforcement procedure in which the levying officer takes over the operation of the judgment debtor's business for a limited duration to obtain cash and credit card receipts for payment to the judgment creditor.

**Mediation** — A process in which a neutral third person helps the parties in a dispute to discuss their problem and work out their own mutually acceptable solution.

**Mediator** — A neutral third person who helps disputants arrive at their own settlement. The mediator doesn't decide the dispute.

**Motion** — A request to the court.

**Notary Public** — A person whose most common function is to certify the signature of an individual.

**Notice of Appeal** — A request for a new trial of the small claims case in the superior court.

**Notice of Entry of Judgment** — A form notifying the parties of the judge's decision in the lawsuit.

**Notice of Motion to Vacate Judgment and Declaration** — A request that asks the court to cancel a judgment that was entered and to hold a new hearing.

**Order to Appear for Examination** — A court order instructing the judgment debtor to appear in court at a specified date and time to answer questions about his or her property and sources of income.

**Personal Service** — Handing a copy of court papers directly to the person to be served.

**Plaintiff** — The person who files the lawsuit.

**Plaintiff's Claim and Order to Defendant** — The form that the plaintiff completes and files to begin a lawsuit in a small claims court. A copy must be served on the defendant.

**Plaintiff's Statement** — A form used by small claims court clerks in some counties to prepare the Plaintiff's Claim and Order to Defendant.

**Pro Tem Judge** — See *temporary judge*.

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**Process** — Court papers that notify a person that he or she is being sued.

**Process Server** — A person who serves court papers on a party to a suit.

**Proof of Service** — A form that must be completed by the person serving court papers on a party, stating that service was properly made.

**Request for Dismissal** — A form filed with the small claims court if a settlement or agreement is made between the parties before the small claims court hearing is held. The dismissal will cancel the scheduled court hearing and stop the proceeding.

**Request to Correct or Vacate Judgment** — A form filed with the small claims court to modify a recently issued judgment. This request does not increase the time for filing an appeal.

**Request to Pay Judgment in Installments** — A form filed, along with a financial declaration, by the judgment debtor if the parties can't agree on an installment payment plan. The judgment creditor may oppose or agree to the request.

**Request to Pay Judgment to the Court** — A form completed by the judgment debtor to pay the judgment directly to the court.

**Satisfaction of Judgment** — See Acknowledgment of Satisfaction of Judgment.

**Service of Process** — The giving of formal notice to the defendant that a suit has been filed against him or her, made by certified mail, personal service, or substituted service.

**Settlement** — An agreement reached by the parties to a dispute that resolves the dispute and states the terms to which they have agreed.

**Small Claims Advisor** — An individual hired by the local county to give free small claims advice.

**Statute of Limitations** — The period of time following an occurrence in which a lawsuit must be filed.

**Stipulate** — To agree to something; to give one's consent.

**Small Claims Subpoena** — An official order for a person to appear in court. The person may be ordered to bring documents.

**Substitute Service** — Service of process on a party by leaving the court papers with someone other than a party to the lawsuit, valid only if certain specified procedures are followed.

**Temporary Judge** — An attorney who volunteers his or her time to hear and decide small claims court cases. Also called a pro tem judge.

**Venue** — The particular court in which an action may properly be brought. Generally, venue is proper in the county in which the defendant resides or does business, in which the accident occurred, or in which the contract was entered into. In commercial transactions, the place of performance is also proper.

**Wage Garnishment** — A legal procedure that requires the employer of a judgment debtor to withhold a portion of the judgment debtor's wages to satisfy the judgment.

**Waive** — To abandon or give up a claim or a right or to forgive some other requirements.

**Writ of Execution** — A document that directs the sheriff to enforce a judgment.