

# SMALL CLAIMS

## HOW LONG DO I HAVE TO FILE MY CLAIM

### STATUTE OF LIMITATIONS

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Most claims must be filed within a set time limit, called a statute of limitations. If the claim isn't filed within the time set by the statute of limitations, the judge may be required to dismiss the claim, unless the operation of the statute of limitations was suspended and the time limit extended.

The statute of limitations prevents the filing of cases that are old. As a general rule, you should file your case as soon as reasonably possible. However, statutes of limitations are affirmative defenses, thus if you are questioning the limitations of your specific case go ahead and file and let the judge decide if you are still within your limits. Statutes of limitations are generally not less than one year.

Here are some examples of various statutes of limitations. Refer to the CA Code of Civil Procedure, section 335 and following, for the specific statutes:

- **Personal Injury** - Two years from the date of the injury. If the injury isn't immediately discovered, two years from the date it is discovered. A minor has one year from his or her 18th birthday to file a case.
- **Oral contract** - Two years from the date the contract is broken.
- **Property damage** – Three years from the date the property was damaged.
- **Written contract** - Four years from the date the contract is broken.
- **Malpractice** – Generally one year from date of malpractice.
- **Fraud** – Three years from the date of discovery.
- **Government entity** - Before you can sue a government entity, you must file a written claim with that entity. For cases involving personal injury and/or damage to personal property, you must file the claim with the government entity within six months. For contracts including breach of contract and damage to real property, you must file the claim within one year. If your claim is rejected by the government entity, you must usually file a court action within six months of the rejection, or you will lose your right to sue.

Rules governing the statute of limitations are complicated, and exceptions may apply to your claim. For example, if the defendant lived outside the state or was in prison for a time, the period for filing your claim may have been extended.

You might assume that a contract was an oral contract, which has a limitation of two years, while it is really a written contract with a limitation of four years. If you're unsure about whether your claim is too old to file, you may file it and let the judge decide whether it was filed too late.

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