

## FILING A NEW CIVIL LAWSUIT

# Starting a Case in Superior Court

Disclaimer: This guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance, consult a lawyer.

This Guide provides general information and resources pertaining to filing a civil lawsuit in Sacramento County Superior Court. The steps for filing a lawsuit in other counties, small claims court, family law, probate, or a federal court are not discussed in this Guide.

### FORMS

All cases require a *Complaint*.<sup>1</sup> In some cases, there is a fill-in-the-blanks Judicial Council form to use; in other cases, you must research and type your *Complaint* on 28-line pleading paper. See Step 2 below for more information about selecting complaint forms.

In addition to the Complaint, the Judicial Council forms commonly used when filing a lawsuit are:

- *Civil Case Cover Sheet* ([CM-010](#))
- *Summons* ([SUM-100](#))
- *Alternative Dispute Resolution Information Package* ([CVAE-100](#))

The Sacramento County Superior Court requires two additional forms in **unlimited civil cases only**:

- *Stipulation and Order to Mediation - Unlimited Civil* ([CV-E-179](#))
- *Program Case Notice for Unlimited* ([CVAE-143U](#))

Other counties may have different requirements. Check the Local Rules for information. This guide and related forms may be downloaded from [saclaw.org/filing-new-civil-case](http://saclaw.org/filing-new-civil-case).

### BACKGROUND

Filing a lawsuit with the court is the first step any plaintiff in a civil case must take to ask the court to decide a dispute. These first papers filed with the court identify who you are suing,

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<sup>1</sup> A few types of specialized cases require a *Petition*. These always require additional research and are not covered in this guide.

the basis for your lawsuit, and the court in which your lawsuit is filed. Taking this step causes the court to create a file for your case, and issue a case number.

## **STEP 1: RESEARCH YOUR CASE**

Prior to starting your lawsuit, you will need to research the laws related to your situation. It is essential that you research these issues, because the answers you find will help you select the proper forms or documents to start your case; determine the court where you will file your case; and identify who to name as the defendant(s) in your lawsuit. Some of the legal issues you will want to research include:

### ***Causes of Action (Legal Grounds for your Lawsuit)***

In every lawsuit, there must be at least one legal cause of action. A cause of action is the specific legal claim for which the plaintiff seeks compensation. In other words, the cause of action is the legal reason why the defendant owes the plaintiff money or other compensation. There are hundreds of available causes of action; you will want to thoroughly research your case, to ensure you're including all the applicable causes of action. Every cause of action comprises several "elements," each of which you will need to prove to win your case. When researching and selecting your causes of action, you will need to pay careful attention to these elements, to determine if you have the facts and evidence necessary to prove each element.

### ***Statutes of Limitation (Deadlines)***

A lawsuit must be filed within a limited amount of time of whatever wrongdoing is alleged in the lawsuit. This deadline is referred to as the statute of limitations. Most of these limitations are defined in the [California Code of Civil Procedure \(CCP\) §§ 335-366.3](#).

The statute of limitations for several common causes of action in California include:

Personal injury or wrongful death: 2 years ([CCP § 335.1](#)).

Damage to personal property: 3 years ([CCP § 338](#)).

Breach of a written contract: 4 years ([CCP § 337](#)).

Breach of an oral contract: 2 years ([CCP § 339](#)).

Determining the appropriate statute of limitations in a case can be deceptively complex. Additionally, research is often required to determine the exact date the statute started running.

Additional restrictions exist if the defendant is a government entity, as government entities and their employees are generally immune from lawsuits that seek damages. In some cases the government is required to waive this immunity, but only if a prospective plaintiff timely files an appropriate claim under the *California Government Claims Act* ([Govt. Code §§ 900 et seq.](#)). The time limit to file a claim is often much shorter than the statute of limitations for a private individual, typically six months or less.

Most lawsuits against a government entity, such as lawsuits under the *Fair Employment and Housing Act* ([Govt. Code §§ 12900 et seq.](#)), can only be heard if a timely claim is filed with the appropriate administrative body, such as the Department of Fair Employment and

Housing. For more information, see our Pamphlet on Claims Against the Government on our website at [saclaw.org/wp-content/uploads/claims-against-the-government.pdf](http://saclaw.org/wp-content/uploads/claims-against-the-government.pdf)

Because the failure to file within the statute of limitations or failure to file a required claim in a timely manner is usually fatal to a case, one of your first research goals should be to determine the applicable statute limitations and whether a claim requirement exists in your case.

For more information on researching and calculating statutes of limitations, see the Legal Research Guide on Statutes of Limitation on our website at [saclaw.org/statutes-limitation](http://saclaw.org/statutes-limitation).

### ***Venue (Choosing the Correct Court)***

As a plaintiff, you have the ability to choose to file a lawsuit, and some degree of choice over where the lawsuit is filed. Typically, a lawsuit is filed in your choice of:

- The county where the real property (*i.e.* land) that is the subject of the lawsuit is located ([CCP § 392](#));
- The county where the accident or other wrongdoing that is the subject of the lawsuit took place ([CCP § 393](#));
- The county where any defendant lives at the time the lawsuit is filed ([CCP § 395](#));
- The county where the contract that is the subject of the lawsuit was to be performed ([CCP § 393](#)); or
- The county where defendant corporation, LLC, or other business entity has its principal place of business ([CCP § 395.5](#)).

A contract may also specify the court that will hear any disputes related to the contract.

If the lawsuit arises out of a loan or other extension of credit that was primarily for:

- personal or household use ([CCP § 395\(b\)](#)),
- a retail installment contract ([Civil Code § 1812.10](#)),
- a financed automobile ([Civil Code § 2984.4](#)),

the plaintiff must file and serve a declaration stating the facts that allow the case to be heard in the county in which the lawsuit is being filed ([CCP § 396a](#)). You can find a sample *Declaration of Venue* on the “Legal Forms” page of our website at [saclaw.org/legal-forms](http://saclaw.org/legal-forms).

### **STEP 2: COMPLETE THE NECESSARY FORMS**

You will need to complete several forms to begin your case, including a Complaint. The Complaint is the main document you will use to initiate your lawsuit. In it, you will outline your case against the defendant; describe the legal basis for your lawsuit (your causes of action); provide the facts giving rise to your claim; and explain what you’d like the court to order the plaintiff do, such as pay damages or perform a certain action. The forms or documents you will need depend on the nature of your lawsuit.

### **Breach of Contract and Personal Injury cases:**

The Judicial Council has developed fill-in-the-blanks forms for very common types of lawsuits: breach of contract and personal injury or property damage. You must include the basic Complaint *and* one or more Causes of Action:

### **Breach of Contract**

- *Complaint- Contract* ([PLD-C-001](#)) **and one or more:**
  - *Cause of Action- Breach of Contract* ([PLD-C-001\(1\)](#))
  - *Cause of Action- Common Counts* ([PLD-C-001\(2\)](#))
  - *Cause of Action- Fraud* ([PLD-C-001\(3\)](#))

### **Personal Injury/Torts**

- *Complaint- Personal Injury, Property Damage, Wrongful Death* ([PLD-PI-001](#)) **and one or more:**
  - *Cause of Action- Motor Vehicle* ([PLD-PI-001\(1\)](#))
  - *Cause of Action- General Negligence* ([PLD-PI-001\(2\)](#))
  - *Cause of Action- Intentional Tort* ([PLD-PI-001\(3\)](#))
  - *Cause of Action- Premises Liability* ([PLD-PI-001\(4\)](#))
  - *Cause of Action- Products Liability* ([PLD-PI-001\(5\)](#))
  - *Exemplary Damages Attachment* ([PLD-PI-001\(6\)](#))

For instructions on completing a Complaint using fill-in-the-blank forms, see Chapter 5 of **Win Your Lawsuit** [KFC 968 .Z9 D86](#) (Self-Help), available from any computer (home or office) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

### **All other cases:**

If there is no fill-in-the-blank form, you will need to research and write the complaint yourself, using 28-line pleading paper. A version pre-formatted for Sacramento County Superior Court may be downloaded from the Law Library's website at [saclaw.org/pleading-paper-sacramento](http://saclaw.org/pleading-paper-sacramento). You must research the requirements for your lawsuit; some good starting places are listed at the end of this Guide.

In addition to the Complaint you must complete:

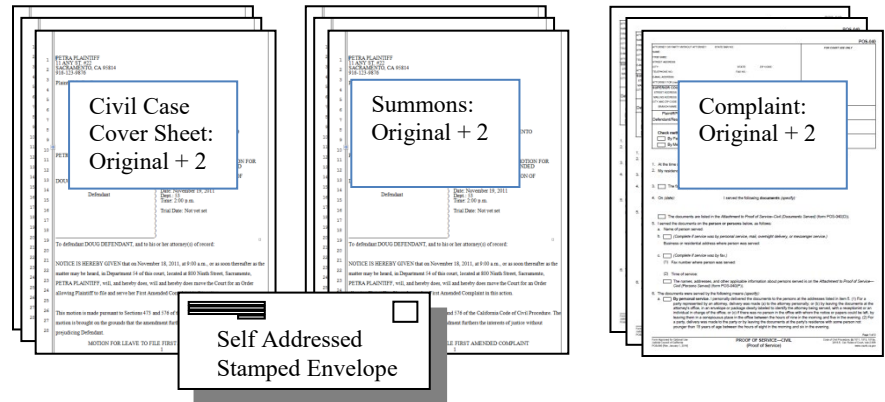
- *Summons* ([SUM-100](#))
- *Civil Case Cover Sheet* ([CM-010](#))

Instructions for completing these forms are available in Chapter 5 of **Win Your Lawsuit** [KFC 968 .Z9 D86](#) (Self-Help), available from any computer (home or office) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

## **STEP 3: MAKE COPIES**

After completing and signing your forms/pleadings, make two additional copies of your documents, and assemble your packet for filing as follows:

- Original *Civil Case Cover Sheet* (CM-010), and two copies
- Original *Summons* (SUM-100), and two copies
- Original *Complaint* with all causes of action and attachments, and two copies.



In Sacramento, the **original** of each multiple-page document is **not stapled**, while each of the **copies** is **stapled**. [Sacramento County Superior Court Local Rule 2.02](#). Each county has its own rules regarding this, so if you are filing in another court, be sure to check that court's rules. In counties that use physical files for documents, rather than scanning them, originals must be two-hole punched at the top of the page. Two-hole punching in Sacramento is optional.

#### STEP 4: FILE YOUR DOCUMENTS

Complaints are filed in the drop box in Room 100 on the first floor of the [Gordon D. Schaber Courthouse](#) at 720 Ninth Street in downtown Sacramento.

##### **Step 4.1: Determine your filing fee**

The filing fees currently range between \$225 and \$435, depending on the type of case, and damages demanded. Current fees are available on the Sacramento County Superior Court's website at [www.saccourt.ca.gov/fees/docs/fee-schedule.pdf](http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf). If you qualify for a fee waiver, you may file a request with the court along with your complaint. For more information, see the Step-by-Step guide on Fee Waivers on our website at [saclaw.org/fee-waiver](http://saclaw.org/fee-waiver).

##### **Step 4.2: File your documents in the drop-box**

Near the dropbox, you will find a supply of [Civil Document Drop-Off Sheets](#), [Credit Card Authorization Forms](#), and a date stamp. Date stamp the backs of all your original documents. This will be the filing date of your documents. Following the instructions posted at the drop box, place your documents in the drop box. Be sure you include:

- *Civil Document Drop-Off Sheet*;
- The packets you made in Step 3;
- A check or *Credit Card Authorization Form* for the filing fee; or Fee Waiver forms if asking the court to waive the filing fee;
- Self-address stamped envelope, if you want the court to return a filed/endorsed copy of these documents to you. Be sure to include sufficient postage to return your document packet.

The court will process your paperwork and scan it into the electronic filing system. This may take several weeks; the court's website ([www.saccourt.ca.gov/civil/civil.aspx](http://www.saccourt.ca.gov/civil/civil.aspx)) lists the dates of documents currently being processed. If you included a self-addressed stamped envelope, the court will return a filed/endorsed copy to you. Otherwise, you may download endorsed copies of your documents from the court's Public Case Access System at [services.saccourt.ca.gov/PublicCaseAccess/](http://services.saccourt.ca.gov/PublicCaseAccess/).

## **STEP 5: HAVE YOUR DOCUMENTS SERVED**

Once you have the endorsed copies, you must arrange to have each defendant served. Service must be completed by someone over the age of 18, who is not a party to the case. This can be the Sheriff's Civil Bureau, a registered process server, an attorney, or a friend or family member who is over 18 and not a party in the case.

Each defendant must be served with a stamped copy of:

- *Civil Case Cover Sheet* (CM-010)
- *Summons* (SUM-100)
- *Complaint* plus all causes of action
- *ADR Package*

If you are filing an unlimited civil case in Sacramento County, you must also serve:

- *Stipulation and Order to Mediation - Unlimited Civil* (CV-E-179)
- *Program Case Notice for Unlimited* (CV-E-143U)

You may make as many photocopies of the endorsed documents as necessary. Service of photocopies is acceptable.

## **FOR HELP**

### **Sacramento County Public Law Library Civil Self Help Center**

609 9<sup>th</sup> Street, Sacramento 95814

[saclaw.org/self-help/civil-self-help-center/](http://saclaw.org/self-help/civil-self-help-center/)

(916) 476-2731 (Appointment Request Line)

*Services Provided:* The Civil Self Help Center provides general information and basic assistance to people without attorneys on a variety of civil legal issues. All assistance is provided by telephone or Zoom videoconference. Visit "[Issues We Can And Cannot Assist With](http://saclaw.org/cshc-services)" ([saclaw.org/cshc-services](http://saclaw.org/cshc-services)) for a list of qualifying cases.

*Eligibility:* Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

## **FOR MORE INFORMATION**

### **At the Law Library:**

**California Civil Practice: Procedure** [KFC 995 .A65 B3](#)

Vol. 2, Chap. 7.

Discussion 7:1 to 7:24

Forms 7:51 to 7:62

**Electronic Access:** On the Law Library's computers, using *WestlawNext*.

**California Civil Procedure Before Trial** [KFC 995 .C34](#)

Vol. 2, Chap. 15.

Discussion Chap. 15

Forms 15:35 to 15:48

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Causes of Action** [KFC 1003 .C35](#)

**California Elements of an Action** [KFC 1003 .S74](#)

**Electronic Access:** On the Law Library's computers, using *WestlawNext*.

**California Forms of Pleading and Practice** [KFC 1010 .A65](#) (Ready Reference)

*Common topics covered include:*

- Attorney Professional Liability, Vol. 7, Chap. 76
- Automobiles, Vol. 8, Chaps. 80-92
- Claim and Delivery, Vol. 12, Chap. 119
- Contract, Vol. 13, Chap. 140
- Conversion, Vol. 13, Chap. 150
- Injunctions, Vol. 26, Chap. 303
- Libel and Slander, Vol. 30, Chap. 340
- Medical Malpractice, Vol. 36, Chap. 415
- Negligence, Vol. 33, Chap. 380
- Partition of Real Property, Vol. 35, Chap. 397
- Premises Liability, Vol. 36, Chap. 421
- Products Liability, Vol. 40, Chap. 460

**Electronic access:** On the Law Library's computers, using the *Matthew Bender CD*.

**California Jurisprudence 3d (CalJur 3d)** [KFC 80 .C35](#) (Ready Reference)

**California Practice Guide: Civil Procedure Before Trial** [KFC 995 .W45](#)

Vol. 1, Chap. 6.

Discussion 6:14-384

[Forms volume](#) chap. 6

[Statutes of Limitations volume](#)

[Claims and Defenses volume](#)

**Electronic Access:** On the Law Library's computers, using *WestlawNext*.

**Litigation By the Numbers** [KFC 995 .G67](#)

Chap. 1. Pgs. 1-6 to 1-20.

**Win Your Lawsuit** [KFC 968 .Z9 D86](#) (Self-Help),

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