

Claim Opposing Forfeiture

The procedure described in this guide is used to ask for the return of property that may be forfeited as proceeds of criminal activity. If your property is the subject of forfeiture proceedings, you will be notified. In Sacramento County, if the property is taken at the time of arrest, law enforcement will provide the arrestee with the notice, usually a pink or yellow carbon copy. Otherwise, notice may be mailed to you from the District Attorney's office.

Templates and Forms

- [Claim Opposing Forfeiture \(MC-200\)](https://www.courts.ca.gov/documents/mc200.pdf) (<https://www.courts.ca.gov/documents/mc200.pdf>)
- [Civil Case Coversheet \(CM-010\)](https://www.courts.ca.gov/documents/cm010.pdf) (<https://www.courts.ca.gov/documents/cm010.pdf>)

[California Health and Safety Code §§ 11469-11495](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11469.)

[allow local law enforcement agencies to seize property believed to be connected with controlled substances criminal activity. If the property is personal property worth \\$25,000 or less and *no timely claims are filed*, a prosecuting agency may, after notifying all potentially interested parties and publishing notice in a newspaper of general circulation in the county where the property was seized, issue a declaration of forfeiture without having to go to court. This is called an administrative \(nonjudicial\) forfeiture action.](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11469.)

IMPORTANT! This procedure is not used to ask for the return of property that was taken as evidence during an arrest or as part of a criminal case. The return of property taken in this way requires the use of different procedures. Talk to a lawyer or visit your local law library for more information if you are in that situation.

If a *Claim Opposing Forfeiture* (MC-200) is timely filed and served, however, the prosecuting agency must file a petition for judicial forfeiture within 30 days after receipt of the claim. Otherwise, the prosecuting agency loses the right to maintain custody of the seized property.

You must file your *Claim Opposing Forfeiture* (MC-200) within 30 days after you receive personal or mailed notice that your property may be forfeited. If you do not receive personal or mailed notice, you must file your claim within 30 days after notice is first published in a newspaper.

Your *Claim Opposing Forfeiture* (MC-200) must be filed in the county where the property was seized. If you have received a notice, you can find the address of the court on that notice.

Within 30 days after filing your claim, you must serve a copy on the District Attorney. The copy you serve must have the court's filing stamp on it.

Step by Step Instructions

1 Complete the Necessary Forms

The Judicial Council forms commonly used in this procedure are:

- [Claim Opposing Forfeiture \(MC-200\)](http://www.courts.ca.gov/documents/mc200.pdf) (<http://www.courts.ca.gov/documents/mc200.pdf>)
- [Civil Case Cover Sheet \(CM-010\)](http://www.courts.ca.gov/documents/cm010.pdf) (<http://www.courts.ca.gov/documents/cm010.pdf>)

Sample filled-in forms with instructions are available at the end of this Guide.

2 Copying and Assembling

Make three copies of each:

- *Claim Opposing Forfeiture* (MC-200)
- *Civil Case Cover Sheet* (CM-010)

Staple each photocopy, but **leave the originals unstapled.**

For each document, place the original on top of its photocopies, and paperclip the stack together.

3 File Your Documents

File your documents at the Civil Filing Window in Room 100 of the Sacramento County Courthouse at 720 Ninth Street.

There is no filing fee if your claim is \$5,000 or less. Claims above \$5,000 require fees based on the amount of your claim. Current fees are available on the [Sacramento County Superior Court's website](http://saccourt.ca.gov/fees/docs/fee-schedule.pdf) (<http://saccourt.ca.gov/fees/docs/fee-schedule.pdf>).

No fees will be collected at the time of filing if you also file a Request to Waive Court Fees. For more information, see our guide on [Fee Waivers](https://sacclaw.org/resource_library/fee-waiver/) (https://sacclaw.org/resource_library/fee-waiver/).

Provide the court with a self-addressed stamped envelope with sufficient postage to facilitate the return of your documents to you.

The court retains the original papers for its file, and will return the photocopies, stamped "Endorsed/ Filed," to you.

4 Have Your Documents Served

You must serve a court-stamped, or endorsed, copy of your Claim Opposing Forfeiture packet on the District Attorney's Office within 30 days of filing your Claim. **You cannot serve the Claim packet yourself**; you must have a person over the age of 18 who is not a party to your action do it for you.

Complete the [Proof of Service by Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf) (<https://www.courts.ca.gov/documents/pos030.pdf>), but do not sign it. Make a copy of the unsigned form before proceeding. The server must then mail a copy of the Claim packet, *along with a copy of the unsigned proof of service form*, in an envelope addressed to: District Attorney, Asset Forfeiture Division, 901 G Street, Sacramento, CA 95814. The server then signs the *Proof of Service by Mail* (POS-030) and gives the signed form to you. For more information, see the Step-by-Step guide on Proof of Service by Mail on our website at saclaw.org/mail-service (<https://saclaw.org/mail-service>).

Alternatively, you may have someone over 18 who is not a party to the action personally serve the District Attorney's office, by delivering the copies of the document to the acceptance window at 901 G Street, Sacramento, and completing a [Proof of Personal Service \(POS-020\)](http://www.courts.ca.gov/documents/pos020.pdf) (<http://www.courts.ca.gov/documents/pos020.pdf>). For more information, see our guide on [Personal Service](https://saclaw.org/resource_library/personal-service/). (https://saclaw.org/resource_library/personal-service/)

5 Copy the Signed Proof of Service and File It

Make one copy of the signed proof of service, then file the original and photocopy in the drop box in Room 100 in the Sacramento Superior Court at 720 Ninth Street. Fill out and attach the [Civil Document Drop-Off Sheet](http://www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf) (<http://www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf>), and date stamp the back of the original proof of service. A supply of *Civil Document Drop-Off Sheets* and a date stamp are located near the drop box. There is no filing fee. Your stamped copy will be returned to you for your records.

6 What Happens Next? Discovery

After receiving your claim, the District Attorney files a Petition for Forfeiture to begin a judicial forfeiture action in court and starts pretrial discovery. **You must watch the mail closely for any mail from the District Attorney.** If you receive any paperwork, you must respond or you may risk losing your case. Your written responses must be in specific legal format, created using pleading paper, and all answers must be signed under penalty of perjury.

If you are served with discovery requests (such as "Request for Production of Documents" or "Requests for Admissions"), you only have 30 days to respond. If you fail to comply with discovery orders, the court may impose sanctions, deny your claim and award a judgment in favor of the DA.

The majority of these cases end when the claimant does not properly respond to Requests for Admissions. Read our guide [Responding to Requests for Admissions](https://saclaw.org/resource_library/discovery-responding-to-requests-for-admissions/) (https://saclaw.org/resource_library/discovery-responding-to-requests-for-admissions/), which includes instructions and a template for your responses.

More Help with Discovery

- **Discovery Videos** (<https://www.saclaw.org/video-library/discovery-1-introduction-to-discovery/>)
- **Gather Information for Your Case** (https://saclaw.org/resource_library/discovery-gather-information-for-your-case/) — Links to all our discovery instructions and templates

For help

SH@LL (Self-Help at the Law Library) (<https://saclaw.org/services/civil-self-help/>)

609 9th Street, Sacramento CA 95814
(916) 476-2731 (Appointment Request Line)

Services Provided: SH@LL provides general information and basic assistance to self-represented litigants on a variety of legal issues. All assistance is provided by telephone. Visit [“What we can help with](https://saclaw.org/services/civil-self-help/#canhelp) (<https://saclaw.org/services/civil-self-help/#canhelp>)” for a list of qualifying cases.

Eligibility: Must be a Sacramento County resident or have a [qualifying case](https://saclaw.org/services/civil-self-help/#who) (<https://saclaw.org/services/civil-self-help/#who>) in the Sacramento County Superior Court.

You must have a notice of forfeiture for assistance with a claim opposing forfeiture.

For More Information

At the Law Library:

California Criminal Law Procedure and Practice, KFC 1155 .C35
Chap. 57, Asset Forfeiture

California Criminal Law Forms Manual, KFC 1155 .A68 C34
Chap. 57, Asset Forfeiture



Samples

Civil Case Cover Sheet (CM-010)

CM-010

Type or write your name, address, and telephone number.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
PAUL SAMPLE
2036 DONNER DR.
SACRAMENTO, CA 95826

TELEPHONE NO.: 916-123-4567 FAX NO. (Optional)

ATTORNEY FOR (Name): Claimant, In Pro Per

Beside "ATTORNEY FOR (NAME)" type or write "Claimant In Pro Per."

Type or write court name, branch & address.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
STREET ADDRESS: 720 Ninth Street
MAILING ADDRESS: 720 Ninth Street
CITY AND ZIP CODE: Sacramento, CA 95814
BRANCH NAME: Civil

The case name is always State of California vs. whatever was seized.

CASE NAME:
State of CA vs. \$1457.82 in US Currency

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000) ☒

Complex Case Designation
☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
JUDGE:
DEPT.:

The clerk will insert a case number.

Check "Limited" unless you are claiming seized property worth more than \$25,000.

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)

Other P/DPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other P/DPD/WD (23)

Non-P/DPD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-P/DPD/WD tort (35)

Employment
☐ Wrongful termination (36)
☐ Other employment (15)

Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property
☐ Eminent domain/inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Judicial Review
☒ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
☐ Enforcement of judgment (20)

Complaint
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 1

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 09/29/2020

PAUL SAMPLE

Type or write name and date.

Signature

NOTICE

Plaintiff must file this cover sheet with the complaint in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.

File this cover sheet in addition to any cover sheet required by local court rule.

If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.

Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use Judicial Council of California CIVIL CASE COVER SHEET Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740; Cal. Standards of Judicial Administration, §§ 3.10 www.courts.ca.gov

Claims opposing forfeiture are not complex, ask for non-monetary relief, have one (1) cause of action, and are not class action suits.

7

Civil Case Cover Sheet (CM-010)



Claim Opposing Forfeiture

MC-200

ATTORNEY OR PARTY WITHOUT ATTORNEY
NAME: Paul Sample
FIRM NAME:
STREET ADDRESS: 2036 Donner Dr.
CITY: Sacramento
TELEPHONE NO.: 916-123-4567
FAX NO.:
E-MAIL ADDRESS:
ATTORNEY FOR (NAME): Claimant, In Pro Per
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
STREET ADDRESS: 720 Ninth Street
MAILING ADDRESS: 720 Ninth Street
CITY AND ZIP CODE: Sacramento, CA 95814
BRANCH NAME: Civil

Check the box by "in response to notice of administrative proceedings."

THE PEOPLE OF THE STATE OF CALIFORNIA

CLAIMED PROPERTY: \$1457.82 in U.S. Currency

CLAIMANT (NAME): Paul Sample

CLAIM OPPOSING FORFEITURE (Health & Saf. Code, § 11488.5)

☐ In response to a judicial petition for forfeiture (use existing case No.)
☒ In response to notice of administrative proceedings

CASE NUMBER:

1. Claimant (name): Paul Sample
is an ☒ individual ☐ corporation ☐ other (specify):
2. Claimed property (describe):
\$1457.82 in U.S. Currency
3. Value of claim is ☒ \$5,000 or less ☐ \$5,001 or more (Health & Saf. Code, § 11488.5)

1. Print your name, and check the box for "individual" (a corporation would need to be represented by an attorney).
2. Write description of the seized property.
3. Check to indicate whether the amount seized is worth \$5,000 or less, or \$5,001 or more. There is no filing fee for cases of \$5,000 or less.

NOTICE

1. You must file your claim within 30 days after you receive personal or mailed notice that your property may be forfeited. If you do not receive personal or mailed notice, you must file your claim within 30 days after the last time notice is published in a newspaper.

2. Your claim must be filed in the county where the property was seized. If the property was not seized, file your claim in the county where the property is located. If you have received a notice, you can find the address of the court on that notice.

3. Within 30 days after filing your claim, serve a copy on the District Attorney or Attorney General. The copy must have the court clerk's filing stamp on it.

This notice is urgent. If you do not understand it, you must seek help.

1. *Antes de la fecha en que recibe, personalmente o por correo, el aviso de que sus bienes pueden ser confiscados. Si no recibe dicho aviso, deberá presentar su reclamo dentro de los 30 días siguientes a la fecha en que el aviso se publica por última vez en un periódico.*

2. *Su demanda debe presentarse en el condado donde fueron confiscados los bienes. Si los bienes no han sido confiscados, presente su demanda en el condado donde están ubicados los bienes. Si ha recibido el aviso, busque la dirección de la corte en el aviso.*

3. *Dentro de los 30 días siguientes a la fecha en que presentó su demanda, envíe una copia de la notificación judicial a la oficina del Fiscal (District Attorney) o del Procurador General (Attorney General). La copia debe llevar el sello del actuario de la corte encargado de recibir las demandas.*

Esta notificación es urgente. Si usted no la entiende, debe pedir ayuda.

Form Approved for Optional Use
Judicial Council of California
MC-200 (Rev. January 1, 2018)

CLAIM OPPOSING FORFEITURE

Page 1 of 2
Health and Safety Code, § 11488.5

Claim Opposing Forfeiture (MC-200) (page 1)

MC-200

Your name and the property that was seized.

The clerk will issue a case number.

CLAIMANT (Name): Paul Sample
CLAIMED PROPERTY: \$1457.82 in U.S. Currency

CASE NUMBER:

4. Claimant has an interest in the claimed property. Claimant

a. ☒ is the owner. For vehicles (cars, boats, planes, etc.) only: ☐ registered owner ☐ legal owner

b. ☐ has a security interest or is a lien holder ☐ has a right to possess.

c. ☐ is the personal representative of the estate of the owner, lessee, or secured party.

d. ☐ other (specify):

Check the appropriate box(es). Usually, the claimant is the owner. If the claimed property is a car, boat, or other vehicle, indicate whether you are the registered owner or the legal owner (lienholder).

5. Claimant's interest in the right to or value of the claimed property is

a. ☒ all ☐ part (specify nature, amount, or percentage)

b. ☐ unknown.

If you are the sole owner of the seized property, check "all." If you only own a portion, check "part," and describe your interest (e.g. "50% interest" or the specific items which are yours).

6. Claimant requests

a. ☒ that the claimed property not be ordered forfeited.

b. ☐ that claimant's interest in the claimed property not be ordered forfeited.

c. ☒ costs of suit.

d. ☐ other (specify):

Check the appropriate box(es) that describe your claim. If you are the sole owner, check (a). If you are a partial owner, and are asking for return of only your part, check (b). If you anticipate any filing fees or process server fees, check (c). Any other orders (if any) requested are identified in item (d).

7. ☐ Number of pages attached: _____

If attaching any other pages, check the box, and write the number of pages attached.

Date: 09/29/2020

Paul Sample

Type or write your name and date.

Signature

(SIGNATURE OF CLAIMANT)

VERIFICATION

I am the claimant in this proceeding and have read this claim. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 09/29/2020

Type or write the date.

Signature

(SIGNATURE OF CLAIMANT)

MC-200 (Rev. January 1, 2018) **CLAIM OPPOSING FORFEITURE** Page 2 of 2

Claim Opposing Forfeiture (MC-200) (page 2)