Filing a Complaint to Start a Civil Lawsuit in California

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 you may need

All cases require a *Complaint.* 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* (https://www.courts.ca.gov/documents/cm010.pdf) (CM-010) (https://www.courts.ca.gov/documents/cm010.pdf)
- *Summons* (https://www.courts.ca.gov/documents/sum100.pdf) (SUM-100) (https://www.courts.ca.gov/documents/sum100.pdf)
- *Alternative Dispute Resolution Information Package* (https://www.saccourt.ca.gov/home/showpublisheddocument/853/639161679674370000) (CV\E-100) (https://www.saccourt.ca.gov/home/showpublisheddocument/853/639161679674370000)

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

- *Stipulation and Order to Mediation – Unlimited Civil* (CV-E-179) (https://www.saccourt.ca.gov/forms-fees/-folder-28-637/-npage-2-637)
- *Program Case Notice for Unlimited* (https://www.saccourt.ca.gov/forms-fees/-folder-28-637#docfold_637_988_14_28) ((https://www.saccourt.ca.gov/forms-fees/-folder-28-637#docfold_637_988_14_28) CV\E-143U (https://www.saccourt.ca.gov/forms-fees/-folder-28-637#docfold_637_988_14_28))

Other counties may have different requirements. Check their Local Rules for information.

Steps required to file a lawsuit

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, the basis for your lawsuit, and the court in which your lawsuit is filed. When you file the paperwork and pay the fee, the court creates a file for your case, and issues a case number.

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 (deadline to file the case)

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 (https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CCP&division=&title=2.&part=2.&chapter=3.&article=) .

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.* (https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=3.6.&chapter=1.&part=3.&lawCode=GOV&title=1.&article=1.)). 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. For more information, see our article Claims Against the Government (https://saclaw.org/resource_library/claims-against-the-government/) .

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 of limitations and whether a claim requirement exists in your case.

For more information on researching and calculating statutes of limitations, see our article on Statutes of Limitation (https://saclaw.org/resource_library/statutes-of-limitations/) .

Venue (choosing the correct court)

As a plaintiff, you have 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 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=392.));
- The county where the accident or other wrongdoing that is the subject of the lawsuit took place (CCP § 393 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=393.));

- The county where any defendant lives at the time the lawsuit is filed (CCP § 395 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=395.) (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=395.));
- The county where the contract that is the subject of the lawsuit was to be performed (CCP § 393 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=393.)); or
- The county where defendant corporation, LLC, or other business entity has its principal place of business (CCP § 395.5 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=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) (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=395.)),
- a retail installment contract (Civil Code § 1812.10 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1812.10.)),
- a financed automobile (Civil Code § 2984.4 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=2984.4.)),

the plaintiff must file and serve a Declaration or Statement of Venue, stating the facts that allow the case to be heard in the county in which the lawsuit is being filed (CCP § 396a (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=396.)). You can find a sample *Declaration of Venue* on our Find-A-Form page (https://saclaw.org/learn/find-a-form/) .

2 Complete all necessary forms

You will need to complete several forms to begin your case, including:

- *Complaint* (form or customized pleading, depending on type of case)
- *Summons* (SUM-100)
- *Civil Case Cover Sheet* (CM-010)

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 specific forms or documents you will need depend on the nature of your lawsuit.

Judicial Council standardized forms

The Judicial Council has developed fill-in-the-blanks forms for a few 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) (https://www.courts.ca.gov/documents/pldc001.pdf) **and one or more**:

- Cause of Action- Breach of Contract (PLD-C-001(1)) (https://www.courts.ca.gov/documents/pldc0011.pdf)
- Cause of Action- Common Counts (PLD-C-001(2)) (https://www.courts.ca.gov/documents/pldc0012.pdf)
- Cause of Action- Fraud (PLD-C-001(3)) (https://www.courts.ca.gov/documents/pldc0013.pdf)

Personal Injury/Torts

Complaint- Personal Injury, Property Damage, Wrongful Death (PLD-PI-001 (https://www.courts.ca.gov/documents/pldpi001.pdf)) **and one or more***:*

- Cause of Action- Motor Vehicle (PLD-PI-001(1)) (https://www.courts.ca.gov/documents/pldpi0011.pdf)
- Cause of Action- General Negligence (PLD-PI-001(2)) (https://www.courts.ca.gov/documents/pldpi0012.pdf)
- Cause of Action- Intentional Tort (PLD-PI-001(3)) (https://www.courts.ca.gov/documents/pldpi0013.pdf)
- Cause of Action- Premises Liability (PLD-PI-001(4)) (https://www.courts.ca.gov/documents/pldpi0014.pdf)
- Cause of Action- Products Liability (PLD-PI-001(5)) (https://www.courts.ca.gov/documents/pldpi0015.pdf)
- Exemplary Damages Attachment (PLD-PI-001(6)) (https://www.courts.ca.gov/documents/pldpi0016.pdf)

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)).

All Other Cases:

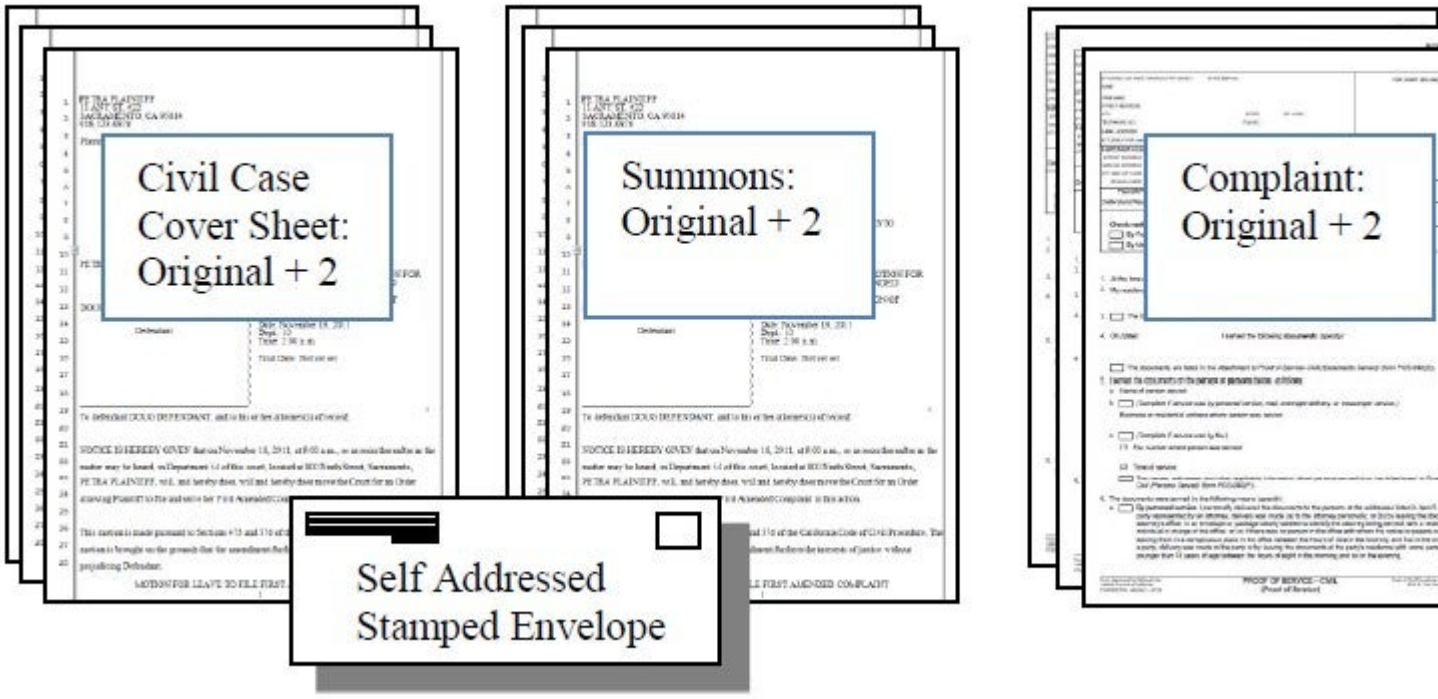
If there is no fill-in-the-blank form, you will need to research and write the complaint yourself, using 28-line pleading paper. Pleading paper pre-formatted (https://saclaw.org/resource_library/pleading-paper-

sacramento-format/) for Sacramento County Superior Court may be downloaded from our website. You will still need the Judicial Council forms for Summons and Civil Case Cover Sheet.

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)
- Original *Summons* (SUM-100)
- Original *Complaint* with all causes of action and attachments



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.

4 File your documents

In Sacramento, new complaints are filed in the drop box at the Tani G. Cantil-Sakauye Courthouse at 500 G Street, Second Floor, Sacramento CA 95814.

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 fee schedule (https://www.saccourt.ca.gov/home/showpublisheddocument/219/639084032985130000) or the website of your local court. **Payment must be made by check or cashier's check only.** If you qualify for a fee waiver, you may file a request with the court along with your Complaint, instead of the fee. For more information, see our guide on Fee Waivers (https://saclaw.org/resource_library/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* (https://www.saccourt.ca.gov/home/showpublisheddocument/861/639099448674370000) and a date stamp machine. Date-stamp the back of each of 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 cashier's check for the filing fee, or the Fee Waiver forms if asking the court to waive the filing fee;
- Self-addressed 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 Sacramento Court's Civil Department page (https://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 at no charge from the Sacramento Court's Public Portal (https://prod-portal-sacramento-ca.journaltech.com/public-portal/) .

5 **Have your documents served**

Once you receive 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-MED-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.

The defendant must usually be served by the server handing it directly to the defendant. For more about service of the summons and complaint, see the California Courts' guide on "Service of Court Papers." (https://www.courts.ca.gov/selfhelp-serving.htm)

What's next?

If the defendant files an Answer (or other response), the parties begin the long process of preparing for trial. There will be many more documents to file and serve throughout the lawsuit. For an overview, see our article, "Steps in a Lawsuit (https://saclaw.org/resource_library/steps-in-a-lawsuit/) ."

If the defendant does not file an answer, you can request a default judgment after their time to respond runs out. This prevents them from filing anything in the case (other than a request to set aside the default judgment). But be aware **that the defendant can file an answer late if you have not yet filed your request for default**. For more information, see our guides on Requesting a Default Judgment by Clerk (https://saclaw.org/resource_library/request-a-default-judgment-by-clerk-2/) and Requesting a Default Judgment by Court (https://saclaw.org/resource_library/request-a-default-judgment-by-court/).

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)" 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) in the Sacramento County Superior Court.

For more information

The following books have information about the process of filing and prosecuting a lawsuit, and/or information about the causes of action you may wish to include. They are all available at the Law Library.

California Civil Practice: Procedure (**KFC 995 .A65 B3** (Vol. 2, Chap. 7))

California Civil Procedure Before Trial (**KFC 995 .C34** (Vol. 2, Chap. 15)). **Electronic Access:** On the Law Library's computers, using *OnLaw.*

California Causes of Action (**KFC 1003 .C35**). **Electronic Access:** On the Law Library's computers, using *VitalLaw*.

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

California Forms of Pleading and Practice (**KFC 1010 .A65** (Ready Reference)). **Electronic access:** On the Law Library's computers, using *Lexis Advance*. Includes common topics such as:

- 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

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

California Practice Guide: Civil Procedure Before Trial (**KFC 995 .W45** (Vol. 1, Chap. 6; Forms Volume, Chap. 6))

California Practice Guide: Civil Procedure Before Trial: Statutes of Limitations (**KFC 995 .W45)**

California Practice Guide: Civil Procedure Before Trial: Claims and Defenses (**KFC 995 .W45**)

Litigation By the Numbers (**KFC 995 .G67** (Chap. 1))

Win Your Lawsuit (**KFC 968 .Z9 D86** (Self-Help))

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