

CLAIM OPPOSING FORFEITURE

Get Back Property Seized in Connection with Alleged Criminal Activity

This Guide includes instructions and sample forms. The Guide and related forms may be downloaded from: saclaw.org/claim-opp-forfeiture.

BACKGROUND

[California Health and Safety Code §§ 11469-11495](#) 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.

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.

Important!

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 this notice, usually a pink or yellow carbon copy. Otherwise, notice may be mailed to you from the District Attorney's office.

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. Ask the Librarian for help finding more information on those procedures.

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.

STEP-BY-STEP INSTRUCTIONS

Step 1: Complete the necessary forms

The Judicial Council forms commonly used in this procedure are:

- [Claim Opposing Forfeiture \(MC-200\)](#)
- [Civil Case Coversheet \(CM-010\)](#)

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

Step 2: Copying and assembling

Make three copies of each:

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

Staple each photocopy, but **leave the originals unstapled**. The originals will be scanned into the court's filing system, and the staple will damage the scanner. For each document, place the original on top of its photocopies, and paperclip the stack together.

Step 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](#). No fees will be collected at the time of filing if you also file a Request to Waive Court Fees. For more information, see the Step-by-Step guide on Fee Waivers our website at saclaw.org/fee-waiver-guide. 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.

Step 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 \(POS-030\)](#), 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. 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 \(POS-020\)](#). For more information, see the Step-by-Step guide on Proof of Personal Service on our website at saclaw.org/personal-service.

Step 5: Copy the signed proof of service and file

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](#), 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.

Step 6: What happens next?

After receiving your claim, the District Attorney usually files a Petition for Forfeiture to begin a judicial forfeiture action in court, and starts pretrial discovery in accordance with standard civil procedure. Each side in a lawsuit may use the discovery process to obtain the evidence that the opposing side possesses. If you are served with discovery requests, you only have 30 days to respond. If you fail to comply with discovery orders, the court may impose sanctions, such as striking your claim and awarding a judgment in favor of the seizing entity.

FOR HELP

Sacramento County Public Law Library Civil Self Help Center

609 9th Street, Sacramento 95814

saclaw.org/self-help/civil-self-help-center/

Services Provided: The Sacramento County Public Law Library Civil Self Help Center provides general information and basic assistance to self-represented litigants on a variety of civil legal issues. Appointments will be made beginning at 8:30 a.m. Patrons who are present at 8:30 a.m. will be entered into a random drawing to determine the order their case will be evaluated. If an appointment is appropriate, it will be made for later in the day. You are encouraged to arrive by 8:25 a.m. to participate in the appointment setting drawing. **You must bring your notice of forfeiture with you for assistance with a claim opposing forfeiture.**

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

The Sacramento County Public Law Library's Civil Self Help Center offers assistance with the discovery process:

Introduction to Written Discovery Class

1:30 p.m. to 3:30 p.m., 1st Thursdays of the Month.

Learn to understand what discovery is, how to answer questions you received by mail, and how you can use discovery yourself. Bring a USB flash drive to download sample forms. The Law Library sells USB drives at the Circulation Desk. Arrive by 1:20 p.m.

Discovery Lab

1:30 p.m. to 3:30 p.m., 2nd & 4th Thursdays of the Month.

Work on your discovery requests or responses in this drop-in computer lab. Bring your USB flash drive with your requests or responses. No entrance after 3:15 p.m. Lab closes promptly at 3:30 p.m. The Introduction to Written Discovery Class is a prerequisite for the Discovery Lab.

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

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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updated rmm 10/2020

ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council forms commonly used in this procedure are:

- [Claim Opposing Forfeiture \(MC-200\)](#)
- [Civil Case Coversheet \(CM-010\)](#)

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

MC-200

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE

NAME: Paul Sample
 FIRM NAME:
 STREET ADDRESS: 2036 Donner Dr.
 CITY: Sacramento
 TELEPHONE NO.: 916-123-4567
 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

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:

Your name, address, and phone number. "Claimant, In Pro Per" means you claim the property and are representing yourself.

Court name, address, and branch.

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

The description of the property that was seized and your name.

Leave blank. The clerk will issue a 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 & Safety 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.

Usted debe presentar su demanda dentro de los 30 días siguientes a 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.

1. 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.
2. 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.

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:	MC-200
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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)

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)

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, VA 95826

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

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

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

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.

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 PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- Asbestos (04)
- Product liability (24)
- Medical malpractice (45)
- Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
- Civil rights (08)
- Defamation (13)
- Fraud (16)
- Intellectual property (19)
- Professional negligence (25)
- Other non-PI/PD/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)

Mark "Asset Forfeiture" under "Judicial Review."

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

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- Plaintiff must file the cover sheet per filed 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.

Page 1 of 2

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