

Small Claims Mistakes

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Small Claims Big Mistakes

First a couple of definitions; you are the plaintiff; they are the defendant(s). We are a collection agency, we are not attorneys, and in no way should anything we say in this document be construed as legal advice, rather it is a compilation of observances from our considerable experience in small claims court.

We've identified 9 of the most common (and most avoidable) **small claims filing mistakes**. If you want to collect your money after you win your case, watch out for these common mistakes;

Skipping the Research

Before you spend your time or your money, check to see if any of the parties have gone or are in the process of going bankrupt. You can still get into court and you might even win a judgment but you won't be able to collect any money.

Similarly, if you don't know how or where to serve the defendant(s) wait to sue until you do know. If your defendant wasn't served properly and on time - you lose!

Naming the Parties Incorrectly

There are thousands of plaintiffs who have won cases against entities that don't exist in the form they were sued. A missing DBA or misplaced LLC is enough to get your case thrown out by a judge during the hearing and even if you do get into court and win it is likely to make your judgment uncollectable.

Spelling Mistakes

Whether or not you think good spelling is important, if you want to collect your judgment you'd better be spelling the defendants name correctly. In one case we know of a levy on a bank account failed because someone typed a 'p' instead of an 'o' in the defendants name, the bank kicked it back, the defendant was alerted and a new petition to the court was required. All that cost the plaintiff weeks if not months before he could collect his money.

Only Suing One Entity

Name everyone you can, if you're suing a corporation and you can find a justification for adding on an individual do it. The more entities named the better your chances of collecting. If one goes bankrupt you can still turn to the other.

Letting Your Friend or Relative Serve the Defendant for You

Like I said before If your defendant wasn't served properly and on time - you lose! This is one of the first things savvy defendants try. (Yes a lot of these defendants maybe even yours have been sued before). In California anyone over the age of 18 can serve a small claims law suit (except you can't do it yourself) but if you use an 'officer of the court' in Los Angeles that means a sheriff or registered process server, California Evidence Code 647 creates a 'presumption of proper service' so you are protected against frivolous claims of improper service.

Over Explaining Your Case

Everybody wants to tell their story, but in this case it's really better to prevail upon a family member to listen to you instead of the judge. They don't want to hear it! Judges have only a few minutes to understand your case, don't distract them with details and explanations, be prepared and be concise. Stick to the core of your case.

No Strategy

Think about your case before you get to court. Think about your defendant; what has he said to you in the past? What kind of argument do you think he'll come up with, be prepared with a counter argument.

Interrupting the Judge

Don't do it. Like I said before the judge knows you want to tell your story but getting emotional and interrupting the judge will not serve you well. Listen to the judge and follow directions - remember judges are people too; you don't want to annoy them.

Not Settling When You Had the Chance

No matter how strong you think your case is, or how much incontrovertible evidence you believe you have, be assured Small Claims is NEVER a slam dunk. You just can't know what a judge is going to do. If you lose they won't tell you why and there won't be anything you can do about it. The process of collections and preparing and serving your case will likely provide you with several opportunities to settle, we strongly recommend you take advantage of those opportunities and settle if you can.

Need Help Collecting Your Judgment? Call us at 800-201-CA\$H (2274)

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