

STEP 3: If you have any witnesses, like a police officer or a neighbor not involved in the case, have them testify.

STEP 4: Read your personal statement detailing the emotional and mental distress the “Problem House” may have caused you, and present evidence of any medical attention you may have received.

STEP 5: The Property Owner will have his/her time to respond and ask questions. Be polite. Do not interrupt. You will have your chance to respond.

STEP 6: When you finish your presentation to the judge you should be sure that he/she realizes that you have incurred certain court costs (i.e. your filing fee) and ask for these costs be added to the judgment. Ask your Small Claims Court Advisor what costs you may ask for.

STEP 7: The Small Claims Court judge can award each plaintiff up to \$5,000 but does not have the power to order the Property owner to evict a party who is not before the court.

C. THE APPEAL

If you win in Small Claims Court, the process may not be over. The Property Owner may appeal the case to the Superior Court. The appeal hearing is similar to the Small Claims Court hearing and the same rules generally apply. The major difference is that lawyers are allowed to represent the participants. Property Owners usually end up with lawyers, so it is a good idea to have one of your own. Be sure to request from the judge your lawyer’s fees.

D. COLLECTING THE JUDGMENT

Collecting your judgment is not as difficult as many people believe. It will, however, require patience.

Two “how to” books already exist that will tell you the in’s and out’s on how to collect your judgment. They are (1) *Collecting Your Small Claims Judgment*, California Department of Consumer Affairs, 1989; and (2) *Collect Your Court Judgment*, Nolo Press, Berkeley, California.

This information brought to you by Vacaville Police Department’s Crime Prevention Unit



Handling NEIGHBORHOOD NUISANCES in Small Claims Court



Small Claims Court
421-6053
VACAVILLE POLICE
DEPARTMENT

EMERGENCY	9-1-1
Non Emergency	449-5200
Crime Prevention	449-5432

CrimePrevention@CityOfVacaville.com
California Relay Service for the Deaf:
Dial (707) 449-5162

SMALL CLAIMS COURT
INFORMATION LINE

421-6053

Municipal & Superiors Courts
600 Union Avenue,
Fairfield, CA

SMALL CLAIMS COURT

A Small Claims Court suit can sometimes be the best way for a neighborhood to force an irresponsible Property Owner to act after all other remedies have been exhausted. Before you start any Small Claims Court action you may want to read *Everyone's Guide to Small Claims Court, California 11th Edition*, by Ralph Warner. This technical self-help law book gives you a detailed account of what to do and how to do it. It is easy to read and available from Nolo Press in Berkeley, California, many bookstores and the public library. In addition, advice is provided through the Small Claims Court Advisor, at the Solano County Court in Fairfield, California.

STEP 1: Maintain an activity log. The log should include any activity that “deprives you of the quiet use and enjoyment of your property, or causes you any emotional or mental distress.” Your log should include the dates and times, plus a description of the activities that disturbed you and how you suffered.

STEP 2: Write a letter to the Property Owner letting her/him know that if no action is taken within 10 days, you and/or the neighborhood group will (collectively) sue her/him in Small Claims Court for maintaining a public nuisance. Send it certified mail, return receipt requested. If the Property Owner still does not act, then you may proceed with your Small Claims Court lawsuit.

You may ascertain the name of the legal owners of the property by going to the Assessors Office located at 701 Texas Street in Fairfield, California.

STEP 3: If others are joining you in the suit, everyone in your group must individually file a suit, which may be collectively heard in court. Children under the age of 18 years may sue by using their parents as their legal guardian. Visit the Small Claims Court Clerk and let her/him know what you are doing and how many people are involved, and if any children are suing. Pick up the forms needed for filing from the Clerk. Ask about the Small Claims Court Advisor. Their services are free, use them to help you with the filing requirements.

STEP 4: Each person must fill out a Plaintiff's statement form. Make a master copy to make it easier. You must sue each person listed as the legal owner of the property. Currently, the maximum that you can sue

for in Small Claims Court is \$7,500. During the calendar year, you may not file more than two small claims action in which the amount demanded exceeds \$2,500.

The reason for your suit is:

“defendants allow activity to occur on their property at (fill-in address of “Problem House”) that deprives me of the quiet use and enjoyment of my property (optional; and causes me emotional and mental distress).”

STEP 5: Return all the Plaintiff's Statements to the Small Claims Court Clerk. Ask the Clerk to schedule the same court date and time for all the claims. Bring a self-addressed stamped envelope for each claim. You should receive the service copies with the court date in about a week. It will cost approximately \$15.00 - \$30.00 per person to file a claim in Small Claims Court.

STEP 6: When the forms are complete, a copy must be served on the property owner. This is called “service of process”. It is important to know the paperwork which must be completed for proper service, so talk to your Small Claims Court Advisor for details. For a small fee, the Small Claims Court will mail your summons to the Property Owner by certified mail, but personal service is recommended. Someone not involved in your suit can serve the Property Owner, or you can hire a professional process server. You cannot serve the property owner yourself.

A. GETTING READY FOR COURT

STEP 1: Ask the Small Claims Court Advisor for help in subpoenaing witnesses you believe will be helpful to your case. If you subpoena a police officer as a witness, the cost of subpoenaing the officer requires a minimum deposit of \$150 per day to defray actual costs to the Police Department. You may also subpoena police reports that may substantiate the activity shown on your activity log. However, you cannot simply ask for all reports regarding the address because such a request is too broad.

You will need to include in the subpoena the date and approximate time of the court hearing. The Small Claims Court Advisor can help you draft a narrowly drawn subpoena that asks for incident reports taken on specific dates regarding specific addresses. Other records and reports from the Fire Department, Health

Department and County Code Enforcement Unit may also be helpful to show other violations.

STEP 2: Organize your records. Each individual should have a separate file to give to the judge. Be sure to keep a copy of the file for yourself. Include in this file your Activity Log Book, all correspondence to the Property Owner and any other reports regarding health and safety code violations that are relevant to the case.

STEP 3: If appropriate, prepare a personal statement detailing the emotional and mental distress that the “Problem House” has caused you. Be prepared to prove your individual monetary damages to the court.

STEP 4: Have a meeting of all the people involved in the lawsuit and discuss how you are going to present your case to the judge. Make a list of questions that you would like to ask the Property Owner and any witnesses that you have subpoenaed. Always contact your witnesses first. A hostile witness in a Small Claims Court action may be unproductive.

A. THE COURT HEARING

Lawyers may not represent a client in Small Claims Court. So it will simply be you and the Property Owner(s) sitting before the judge to state your case. The legal theories underlying your case are that the property owner is liable, for maintaining a nuisance. To support this legal theory you must prove the (1) Property Owner owns the “Problem House” and was notified of the problem and given reasonable opportunity to correct it, and (2) the activities at the “Problem House” have continued and have deprived you of the quiet use and enjoyment of your premises and/or caused you emotional and or mental distress.

STEP 1: It is critical that the judge know what the case is about before you start arguing it. So tell the judge the problem and then briefly outline your position. It may be helpful to present the judge with a written summary of your case before the hearing begins.

STEP 2: Now present your case to the judge, describing in detail the problem. You may want to prepare a map of your neighborhood, photos of the “Problem House”, and a display board of any newspaper clippings, etc. to support your claim. Describe what efforts you have taken to eliminate the “Problem House” and tell the judge what contact you have had with the Property Owner and the results.