

Using the Small Claims Court for Low Damage Auto Accidents

What is Small Claims Court (SCC)?	For many legal disputes, you do not need an attorney. In fact, for certain cases it would be detrimental if you had to hire a lawyer. The SCC system was designed to settle lower value cases (less than \$10,000) without the need for legal representation. The process is informal, streamlined, and far less complex than other forms of court. It is an ideal place to get paid for injuries stemming from minimal auto damage.
What are some the limitations of SCC?	Each state has its own maximum amount that can be sued for in SCC. In California, the case limit is for an individual is \$10,000. You cannot file more than two small claims cases anywhere in California for more than \$2,500 each during a calendar year. If the person suing (the plaintiff) loses the case, there is no SCC appeal right. If the person being sued (the defendant) loses the case, he or she may appeal the decision.
How do I file a SCC?	Check the Small Claims Court website in your county. You can complete most of the paperwork on-line and download the completed forms. The website should also provide instructions for where to properly file the case (the venue). There is a reasonable fee associated with the filing that may be recovered in the lawsuit.
How does the defendant get notified about the SCC trial?	The defendant must be properly notified about the SCC case. There are several ways this can be done. In some venues, an officer of the law can serve the defendant the court papers. The most common method of serving the defendant is via a process server . Anyone who is not a party in your case and who is at least 18 years old can serve as a process server and must personally give a copy of your claim to the defendant. This person must also sign a proof of service form showing when the defendant was served. A registered process server can be easily located via the Internet and will serve papers for a fee. Defendant notification via a court sent certified mail is also an option, but it must be done exactly right to be valid. No matter which method of service you choose, the defendant must be served by a certain date, or the trial will be postponed. If the defendant lives in the county, service must be completed at least 15 days before the trial date. This period is at least 20 days if the defendant lives outside the county.
What happens at the SCC trial?	Dress up in a respectable fashion and show up on time for the trial. Once at the proper courtroom, wait as directed until you are told to come in. The specific rules for the judge will be explained to you. You might be given the opportunity for your case to first be heard by a mediator, which may allow a workable solution without a SCC <i>trial</i> . The trial process itself is relatively informal and is over quite quickly. Be prepared to state your case clearly and concisely. You may want to practice before a video camera, a voice recorder, or another person. You can typically present additional information to the judge. For low vehicle damage cases, this additional information would include the special handouts provided with this paper, as well as a case summary page. The court's decision may be stated at the time the trial is completed or it may be mailed to you.
For a PI case, what type of damages can be asked for?	For your auto accident case, you can request the following be compensated for: 1) The costs of any auto repairs and/or transportation costs caused by the motor vehicle accident. 2) The costs for any <i>reasonable</i> medical expenses incurred as a result of the auto accident. 3) The cost of any self-paid over-the-counter medication(s), supports, prescribed massages, etc. as a result of the injuries sustained. 4) The cost of any missed work, vacation time/comp time/sick leave time lost as a result of the accident. 5) The cost of the SCC filing and reasonable processor server charges. 6) Pain and suffering resulting from the injuries. This last damage is highly subjective and must be clearly outlined in terms that will carry weight with the judge. Powerful phrases include such things as: unable to sleep for 4 nights; couldn't drive myself for 1 week; missed my school classes for 2 weeks; was sick for 2 days due to attempted Percocet use. Some people choose to value the "pain and suffering" component as a certain factor times the medical costs, since medical costs are sometimes viewed as an indicator of the severity of the bodily injury. It is at the judge's discretion how he or she handles this issue.
What happens after the SCC's decision is received?	The party who wins the case and is owed the money is called the judgment creditor. The party who loses the case and owes the money is called the judgment debtor. Enforcement of the judgment is typically postponed until the time for appeal ends. After that date, the judgment debtor legally is obligated to pay the amount determined in court. If the person has auto insurance liability insurance, this insurer will almost always elect to pay a valid judgment so as to avoid a BAD FAITH action by their insured. If there is no auto insurer to pursue, write the debtor a letter and include a copy of the court order. Remind the debtor that he or she owes you money and that you may have to take more serious steps if he or she does not pay you voluntarily. If the debtor still fails to pay, you have several options. The SCC will assist you in obtaining the proper paperwork to request a mandatory debtor's examination to see what assets can be used to pay the debt. There are also ways to purse money directly from the paycheck, bank account, or till, and there ways to get the at fault driver's license suspended until the debt is paid. Check out the references below for more information.
Where I can learn more about Small Claims Court?	(For California cases in general) http://www.dca.ca.gov/publications/small_claims/file.shtml (For San Diego cases) http://www.sdcourt.ca.gov/pls/portal/docs/PAGE/SDCOURT/GENERALINFORMATION/FORMS/SMALLCLAIMSFORMS/PKT019.PDF