



Small Claims Court

A Fact Sheet for Child Care Providers

Handout #17

Healthy Children, Strong Families, Caring Communities

Recovering Fees

If you are a child care provider who is owed money for your services, you may need to use the court system to recover your fees. Before you take that step, make sure you have tried other means to collect.

Begin by making a written demand to the person stating how much is owed and the dates the costs were incurred. Indicate that you expect payment in full by a certain date (usually two weeks from the date of the letter). Keep a copy of the letter. Send it certified mail and request a return receipt for your records. On the reverse side of this handout is a sample letter you may want to use.

Going to Small Claims Court

If your written demand for payment has not been met, you will want to file a claim with the court. Here are some of the rules you need to follow:

- File your claim in the proper venue or judicial district; this is the county where the defendant lives or where the contract was entered into or breached (such as payment missed).
- Sue using the defendant's exact legal name.
- The defendant is the person you are suing and you are the plaintiff.
- You may consult a lawyer for advice, but you may not bring a lawyer with you to court.
- You cannot claim more than \$5,000 in small claims court, or file more than two cases in small claims court for more than \$2,500 each during a calendar year.

The fee for filing your claim currently is \$22. However, if you have filed 13 or more claims in the past 12 months, then you must pay \$38.50 for each claim after the first 12 claims. You must inform the defendant about your lawsuit by getting them a copy of the claim. You cannot do this yourself. It must be done according to the rules of the court to avoid having your claim dismissed. This is called a "service of process" and must be done by:



- Certified mail sent by a Small Claims Court clerk.
- A marshal, sheriff or constable in the county where the defendant lives. If you choose this method, contact the Sheriff's Department for further instructions. The cost for service is presently \$30 per defendant.
- A private process server (a listing of process servers may be found in the Yellow Pages under Process Serving).
- Anyone at least 18 years-old who is not a party to the action. If you choose this method, the person you select must serve the claim at least 15 days prior to the court date if the defendant is in county and at least 20 days if the defendant lives out of county. For information regarding substitute service, contact the Small Claims Advisory Clinic at 916/875-7846. The defendant must be served by a certain date before the trial or the date will be postponed. Call the Small Claims Advisory Clinic for more information on Process Service.

Once you get to court, the judge will hear from both you and the defendant. Bring all the documentation you have, including: contracts, parent agreements, written letters requesting payment, cancelled checks and attendance forms.

The judge will make a decision and the clerk will mail both parties a copy of the decision within one to three weeks. If both parties agree, a repayment schedule may be worked out or possibly ordered by the court. The Small Claims Advisory Clinic will give you your options if the defendant does not voluntarily agree to a repayment schedule; and the advisory clinic can walk you through the necessary papers to collect.

For More Information

For advice about your case, necessary forms and help on legal and technical questions, call the Small Claims Advisory Clinic at 916/875-7846 or online at www.scacAdvice.com. The Small Claims Advisory Clinic is in the Small Claims Court Division of the Carol Miller Justice Center at 301 Bicentennial Drive, Room 330, Sacramento, CA 95826. Walk-in advice on small claims is available

Monday thru Friday, 8:30 am to 12:00 pm and 1:00 to 4:00 pm. A Children's Waiting Room is also available. Check for hours and newly mandated Public Closure Days.

You may access helpful online links about small claims and file your small claims paperwork with the Small Claims Court online at www.saccourt.com. Online self-help Information is available in 4 languages.

Your Name
Address
City, State Zip Code

Date

Parent's Name
Address
City, State Zip Code

Dear Ms./Mr./Mrs. _____,

I am writing in regard to the amount you owe me for providing child care services to your son, Sam, in my family child care home for the months of January and February, 2001.

According to my records, the fees for the child care were:

January, 2009	(full time)	\$400.00
February, 2009	(full time)	<u>\$400.00</u>
Total amount owed		\$800.00

The amount I received for the above services was:

January, 2009	(full time)	\$250.00
February, 2009	(full time)	<u>\$325.00</u>
Total amount paid		\$575.00

The balance due is \$225.00. I intend to file a small claims suit against you for the amount due plus my costs, unless this debt is paid in full or satisfactory arrangements for payments are made by (date).

Please contact me immediately so that we may resolve this matter.

Sincerely,

Signature

Your Name
Phone Number