

CHANNEL ISLANDS CHAPTER  
**community**  
ASSOCIATIONS INSTITUTE

**CAI-Channel Islands  
CHAPTER LUNCHEON**

***You've Been Served, Now What?***  
**Mastering Small Claims Court  
for Successful Resolution**

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## Overview

- Advantages & Disadvantages of Suing in Small Claims
- Monetary Limits in Small Claims
- Determining if Small Claims Appropriate?
- Preparing for Trial
- Attending Trial
- Judgment
- Appeal



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## Advantages of Small Claims

- Cases are heard quickly - within weeks and months, not years
- Simple paperwork
- Simple trial
- No attorneys
- Reduced liability exposure
- No “pending litigation”



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## Disadvantages of Small Claims



- Limited access to opposing evidence
- Non-monetary relief is limited
- Parties present their own case
- Time commitment: preparation; attending trial; appeal; collecting; etc.
- Cannot recover attorney's fees/costs

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## Monetary Limits in Small Claims



In general:

- Individuals - can sue for up to \$12,500
- Businesses (HOAs) - can sue for up to \$6,500

Limitations

- No more than two cases over \$2,500 in a *calendar* year
- Unlimited number of cases less than \$2,500

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## Is Small Claims Appropriate?

You might be a Plaintiff in Small Claims if...

- Collection of delinquent assessments (late fees, interest, collection costs)
- Collection of chargeable expenses – water, services, etc.
- Monetary fines / penalties
- Reimbursement for cost to repair common area damage
- Breach of contract by vendor

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## Is Small Claims Appropriate?

**Defending a Small Claims case...**

- Failure to respond timely or completely to a member's request for records
  - \$500 for each unreasonable denial
- Challenge to assessment, fine or fee (payment under protest)
- Contested elections (i.e., failure to follow secret balloting and election procedures - Civil Code §§5100-5145)
- Damage reimbursement, relocation costs, loss of income/wages, etc.

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## Is Small Claims Appropriate?

### Injunctive relief available to owners includes...

- Access to HOA media/resources for campaign purposes
- Receipt of a ballot by a member
- Counting, tabulation or reporting of, or access to, ballots for inspection and review after tabulation

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## Is Small Claims Appropriate

### Be Prepared for the Unexpected

- Manager as a defendant
- Late service of lawsuit by plaintiff
- Incorrect venue
- Incorrect name of HOA
- Trial date: You're unavailable or it's inconvenient.

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## Who Can Appear For the HOA?

- Authorized board member (if named, must appear)
  - Knowledge of the evidence, and
  - Authority to settle
  
- Custodian of records
- Manager (if named, must appear)

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## Prepare For Trial

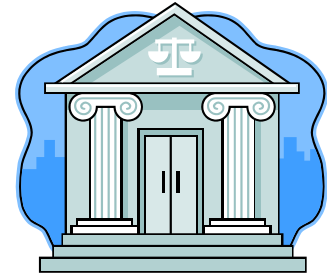
- Prepare trial outline
  - Table of contents
  - Summary of claim/defense
  - Chronology
  - Analysis
  - Conclusion
- Prepare exhibit book
  - HOA's governing documents
  - Excerpts of applicable law
  - Contracts, invoices, emails, minutes, etc.
- Make 3 copies of everything (1 for you, 1 for the other party, 1 for the judge)



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## Attend the Trial

- Check the docket
- Check-in with court clerk
- Exchange evidence with opposing party – don't leave courthouse
- Negotiate settlement (if appropriate)
- Any settlement should be entered as court order
- If no settlement, case is argued before judge
  - Plaintiff, who has burden of proof, goes first
  - Defendant presents defense and arguments



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## Conduct At Trial

- Calling the judge, “your honor”
- Not speaking out of turn / arguing
- Facial expressions – keep it professional
- Showing respect
- Professional Attire
- Silence your cell phone



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## Judgement Rendered

- Decision made at hearing or taken under submission
- Final decision: *Notice of Entry of Judgment*
- Must wait 30 days from the date of mailing on the *Notice of Entry of Judgment* to begin collecting

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## Appeal

**Only a losing defendant (or plaintiff who has lost a countersuit) may appeal**

- Must be filed no later than 30 days after the date of mailing on the *Notice of Entry of Judgment*
- Results in a *Trial de novo*
- Attorneys may represent the parties

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THANK YOU!

