



## ACCESS CENTER SMALL CLAIMS A-Z

### SUING THE CORRECT PARTY: NAMING DEFENDANTS

One of the most important aspects of filing a small claims case is naming the defendant(s). Follow the guidelines to determine who to name as defendant(s):

- If it is a car accident case, you can sue the driver and the owner(s) of the car. You cannot sue the driver's or owner's insurance company.
- If you are suing a business, you must first find out how the business is owned. If the business is a sole proprietorship and is using a fictitious business name, such as "Tony's Tires", you must look up that business name with the County in which the business is located. In San Francisco, you may visit the [Fictitious Business Search](#) to find out who owns Tony's Tires. You will then name your defendant, "Tony Smith DBA Tony's Tires." Is it a partnership, a limited liability company (LLC), a corporation (Corp. Inc.), or a limited liability partnership (LLP)? If it is an LLC or a Corp. (Inc.), you must locate **the agent for service of process**. Go to the [California Secretary of State's Business Search](#) to locate the agent for service. The agent for service is NOT to be named as a defendant. The agent is only served the paperwork.

#### Example:

If you were suing McDonalds Corporation, you would locate the agent for service by going to [California Secretary of State's Business Search](#) and locate the agent for service. The records you will find will list the correct corporate name, the corporation's address, the agent for service of process and the agent's address. The defendant is the McDonald's Corporation. The address on the plaintiff's claim form is the corporation's address, not the Agent for Service of Process' address. When serving the papers, if using certified mail through the court, list the agent for service like this:

**Name:** Put the agent's name here  
**Title:** Put "agent for service of process" here  
**Company:** Put the company's name that you are suing  
**Street:** Put the agent's address here  
**City & Zip:** Put the agent's city and address here

- If you are suing for a product that injured you, you should start by naming the location (the retailer) where you purchased the product. Then name the wholesaler of the product, the one that provided the retailer the product. If you don't know the information, contact the retailer and ask. Then name the manufacturer of the product. The name of the manufacturer should be on the packaging.
- If you are suing for a security deposit, name the party that entered into the contract, whether that is the management company or the property owner. If the property owner signed the contract or entered into the oral agreement, then the property owner would be the only defendant.
- If you are suing a government (state or city) for an injury, only name the "City and County of San Francisco" or the "State of California," and not a specific city employee, unless you are alleging that the injury was inflicted outside the scope of the employee's job.

### **Example**

If you were injured on a Muni bus, you would not name the driver personally unless you are alleging the driver was drunk or attacked you or did something outside of the scope of his employment duties.