

How to sue a nuisance neighbor in Small Claims Court

Important Phone Numbers

Small Claims Court-Solano County
707-421-7435

Small Claims Court Advisor
707-435-2395

Mondays:

8:00 a.m.—12 noon,

1:00 p.m.—5:00 p.m.

Tuesdays through Thursdays:

8:30 a.m.—12:30 p.m.

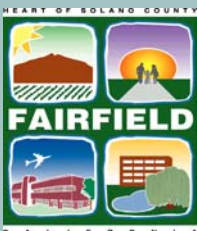
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PLANNING & DEVELOPMENT
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PHONE: 707-428-7461

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INFORMATION COURTESY OF
SANTA ROSA
POLICE DEPARTMENT



A Small Claims Court suit can sometimes be the best way for a neighborhood group 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 is available at Nolo Press in Berkeley, at most bookstores and the library. In addition, free legal advice is provided through the Small Claims Court Advisor (435-2395).

1. Get Organized

Talk to your neighbors and organize yourselves into a coordinated group. You may want to assign roles and responsibilities and set deadlines for the tasks you are about to undertake. You can share information about your rights, the law, and the steps needed to remove the nuisance from your neighborhood.

2. Document everything

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 dates and times, plus a description of the activities that disturbed you and how you suffered.

3. Notify the Nuisance Owner

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

4. File your claims

Everyone in your neighborhood group

must individually file a claim, 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 or him know what you are doing, how many people are involved, and if any children are suing. Pick up the forms needed for filing from the clerk. Ask about a Small Claims Court Advisor. His services are free. Let him help you with all the details.

5. Complete the Plaintiff Statement

Each person must fill out a Plaintiff's Statement form. Do a master copy to make it easier. You must sue each person listed as the legal owner on the property deed. You can each sue for the maximum amount allowed in Small Claims Court - \$5,000 twice a year and \$2,500 thereafter.

The reason for your suit is: *"Defendants allow illegal activity to occur on their property at (fill in address of "Drug House") that deprives me of the quiet use and enjoyment of my property and causes me emotional and mental distress."*

6. Turn in your Statements

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 \$22 to file a claim in Small Claims Court, or \$66 for people who have filed more than 12 claims in the last 12 calendar months.

7. Serve the Property Owner

When the forms are complete, a copy must be served on the person, persons, or corporation you are suing. This is

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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.

GETTING READY FOR COURT

STEP 1: Ask your Small Claims Court Advisor for help in subpoenaing a specific police officer if you believe it will be helpful. The cost of subpoenaing an officer requires a deposit of \$150 to defray actual costs to the Police Department. You may also subpoena police reports that will corroborate 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 the date and the approximate time. 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 public records and reports from the Fire Department, Health Department and City Building Inspector may also be helpful to show other violations.

STEP 2: Organize your records. Each individual should have a separate file to give 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 City Officials, and any other reports regarding health or safety code violations that are relevant to the case.

STEP 3: Prepare a personal statement detailing the emotional and mental distress that the "Drug 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 suit 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 witness first. A hostile witness in a Small Claims Court actions may be unproductive.

THE COURT HEARING

No lawyers may 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 (1) maintaining a nuisance and (2) acting negligently.

To support this legal theory you must prove the

- (1) Property Owner owns the "Drug House" and was notified of the problem and given a reasonable opportunity to correct it, and

- (2) the activities at the "Drug House" have deprived you of the quiet use and enjoyment of your premises and/or caused you emotional distress.

STEP 1: It is critical that the judge knows what the case is about before you start arguing it. So tell the judge the problem and then briefly outline your position.

STEP 2: Now present your case to the judge, describing in detail the problem. A map of your neighborhood, photos of the "Drug House", and a display board of any litter or other debris are good support documents. Describe what efforts you have taken to get rid of the "Drug House" and tell the judge what contact you have had with the Property Owner and the results.

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 "Drug House" has caused you.

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

STEP 6: When you finish your presentation to the judge, you should be sure she/he realizes that you have incurred certain court costs and ask for these costs to 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.

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 laws apply. The only 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.

COLLECTING THE JUDGMENT

Collecting your judgment is not as hard as many people make it out to be. Two "how-to" books exist that can tell you the how to collect your judgment. They are:

1. Collecting Your Small Claims Judgment
California Department of Consumer Affairs, 1989
2. Collect Your Court Judgment
Nolo Press, Berkeley