

## Small Claims Court

### How Do Real Estate Disputes Get Resolved?

When a real estate dispute arises, the first step towards resolution is generally a negotiation between buyer and seller through their respective agents. If not successful, then the C.A.R. Residential Purchase Agreement ordinarily requires the parties to attempt mediation before filing a lawsuit. However, for eligible claims, the parties can go directly to Small Claims court instead.

### What Types of Disputes Are Eligible for Small Claims Court?

Monetary claims of all types can be decided in Small Claims court. These could be related to claims made by either buyer or seller for release of the deposit, cost to fix repairs that were not made correctly or diminution of value, to name but a few examples. The dollar amount is limited and individuals can only file in Small Claims court if the amount claimed does not exceed \$10,000. Others, such as corporations or LLCs, are limited to claims not exceeding \$5,000.

### What Should I Know About Small Claims Court?

- The person filing the claim, called the plaintiff, cannot appeal the decision;
- The person being sued, called the defendant, can appeal the decision, which results in a new trial in the Superior Court;
- There are no juries. The case will be decided by a judge or judge *pro temp*, usually an attorney acting as a judge with the permission of the parties;
- Neither plaintiffs nor defendants may be represented in Small Claims court by an attorney;
- A property manager may appear for a property owner for claims related to the managed property;
- Plaintiff can file under a fictitious business name if the name complies with applicable law;
- Spouses may appear for each other, with the permission of the Court;
- Plaintiffs and defendants will be given time to argue their case; however, because many small claims courts are so busy, the time will likely be very limited.
- Come prepared for the hearing with supporting documents such as the contract, associated forms, inspection reports, estimates and invoices, and even witnesses.
- Plaintiff must serve the defendant with the lawsuit at least 15 days prior to the hearing date and 20 days if the defendant is out of the County.
- An out-of-State property owner can be served if the claim relates to the property owned in California by the out-of-State owner;
- Small claims hearing can be scheduled anywhere between 20 and 70 days after filing; and
- Small claims filing fees range from \$30 to \$75 dollars, depending on the amount of the claim, for those filing no more than one claim per year.