

## CODE OF CIVIL PROCEDURE

### SECTION 116.510-116.570

116.510. The hearing and disposition of the small claims action shall be informal, the object being to dispense justice promptly, fairly, and inexpensively.

116.520. (a) The parties have the right to offer evidence by witnesses at the hearing or, with the permission of the court, at another time.

(b) If the defendant fails to appear, the court shall still require the plaintiff to present evidence to prove his or her claim.

(c) The court may consult witnesses informally and otherwise investigate the controversy with or without notice to the parties.

116.530. (a) Except as permitted by this section, no attorney may take part in the conduct or defense of a small claims action.

(b) Subdivision (a) does not apply if the attorney is appearing to maintain or defend an action in any of the following capacities:

(1) By or against himself or herself.

(2) By or against a partnership in which he or she is a general partner and in which all the partners are attorneys.

(3) By or against a professional corporation of which he or she is an officer or director and of which all other officers and directors are attorneys.

(c) Nothing in this section shall prevent an attorney from doing any of the following:

(1) Providing advice to a party to a small claims action, either before or after the commencement of the action.

(2) Testifying to facts of which he or she has personal knowledge and about which he or she is competent to testify.

(3) Representing a party in an appeal to the superior court.

(4) Representing a party in connection with the enforcement of a judgment.

116.531. Nothing in this article shall prevent a representative of an insurer or other expert in the matter before the small claims court from rendering assistance to a party in the litigation except during the conduct of the hearing, either before or after the commencement of the action, unless otherwise prohibited by law; nor shall anything in this article prevent those individuals from testifying to facts of which they have personal knowledge and about which they are competent to testify.

116.540. (a) Except as permitted by this section, no individual other than the plaintiff and the defendant may take part in the conduct or defense of a small claims action.

(b) Except as additionally provided in subdivision (i), a

corporation may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, who is employed, appointed, or elected for purposes other than solely representing the corporation in small claims court.

(c) A party who is not a corporation or a natural person may appear and participate in a small claims action only through a regular employee, or a duly appointed or elected officer or director, or in the case of a partnership, a partner, engaged for purposes other than solely representing the party in small claims court.

(d) If a party is an individual doing business as a sole proprietorship, the party may appear and participate in a small claims action by a representative and without personally appearing if both of the following conditions are met:

(1) The claim can be proved or disputed by evidence of an account that constitutes a business record as defined in Section 1271 of the Evidence Code, and there is no other issue of fact in the case.

(2) The representative is a regular employee of the party for purposes other than solely representing the party in small claims actions and is qualified to testify to the identity and mode of preparation of the business record.

(e) A plaintiff is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if (1) the plaintiff is serving on active duty in the United States Armed Forces outside this state, (2) the plaintiff was assigned to his or her duty station after his or her claim arose, (3) the assignment is for more than six months, (4) the representative is serving without compensation, and (5) the representative has appeared in small claims actions on behalf of others no more than four times during the calendar year. The defendant may file a claim in the same action in an amount not to exceed the jurisdictional limits stated in Sections 116.220, 116.221, and 116.231.

(f) A party incarcerated in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities facility is not required to personally appear, and may submit declarations to serve as evidence supporting his or her claim, or may authorize another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(g) A defendant who is a nonresident owner of real property may defend against a claim relating to that property without personally appearing by (1) submitting written declarations to serve as evidence supporting his or her defense, (2) allowing another individual to appear and participate on his or her behalf if that individual is serving without compensation and has appeared in small claims actions on behalf of others no more than four times during the calendar year, or (3) taking the action described in both (1) and (2).

(h) A party who is an owner of rental real property may appear and participate in a small claims action through a property agent under contract with the owner to manage the rental of that property, if (1) the owner has retained the property agent principally to manage the rental of that property and not principally to represent the owner in small claims court, and (2) the claim relates to the rental property.

(i) A party that is an association created to manage a common interest development, as defined in Section 4100 or in Sections 6528 and 6534 of the Civil Code, may appear and participate in a small claims action through an agent, a management company representative, or bookkeeper who appears on behalf of that association.

(j) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of a party under subdivisions (b) to (i), inclusive, to file a declaration stating (1) that the individual is authorized to appear for the party, and (2) the basis for that authorization. If the representative is appearing under subdivision (b), (c), (d), (h), or (i), the declaration also shall state that the individual is not employed solely to represent the party in small claims court. If the representative is appearing under subdivision (e), (f), or (g), the declaration also shall state that the representative is serving without compensation, and has appeared in small claims actions on behalf of others no more than four times during the calendar year.

(k) A husband or wife who sues or who is sued with his or her spouse may appear and participate on behalf of his or her spouse if (1) the claim is a joint claim, (2) the represented spouse has given his or her consent, and (3) the court determines that the interests of justice would be served.

(l) If the court determines that a party cannot properly present his or her claim or defense and needs assistance, the court may in its discretion allow another individual to assist that party.

(m) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

116.541. (a) Notwithstanding Section 116.540 or any other provision of law, the Department of Corrections or the Department of the Youth Authority may appear and participate in a small claims action through a regular employee, who is employed or appointed for purposes other than solely representing that department in small claims court.

(b) Where the Department of Corrections or the Department of the Youth Authority is named as a defendant in small claims court, the representative of the department is not required to personally appear to challenge the plaintiff's compliance with the pleading requirements and may submit pleadings or declarations to assert that challenge.

(c) At the hearing of a small claims action, the court shall require any individual who is appearing as a representative of the Department of Corrections or the Department of the Youth Authority under subdivision (a) to file a declaration stating (1) that the individual is authorized to appear for the party, (2) the basis for that authorization, and (3) that the individual is not employed solely to represent the party in small claims court.

(d) Nothing in this section shall operate or be construed to authorize an attorney to participate in a small claims action except as expressly provided in Section 116.530.

(e) For purposes of this section, all references to the Department of Corrections or the Department of the Youth Authority include an employee thereof, against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

116.550. (a) If the court determines that a party does not speak or understand English sufficiently to comprehend the proceedings or give testimony, and needs assistance in so doing, the court may permit another individual (other than an attorney) to assist that party.

(b) Each small claims court shall make a reasonable effort to maintain and make available to the parties a list of interpreters who are able and willing to aid parties in small claims actions either for no fee, or for a fee which is reasonable considering the nature and complexity of the claims. The list shall include interpreters for all languages that require interpretation before the court, as determined by the court in its discretion and in view of the court's experience.

(c) Failure to maintain a list of interpreters, or failure to include an interpreter for a particular language, shall not invalidate any proceedings before the court.

(d) If a court interpreter or other competent interpreter is not available to aid a party in a small claims action, at the first hearing of the case the court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual (other than an attorney) to assist that party. Any additional continuances shall be at the discretion of the court.

116.560. (a) Whenever a claim that is filed against a person operating or doing business under a fictitious business name relates to the defendant's business, the court shall inquire at the time of the hearing into the defendant's correct legal name and the name or names under which the defendant does business. If the correct legal name of the defendant, or the name actually used by the defendant, is other than the name stated on the claim, the court shall amend the claim to state the correct legal name of the defendant, and the name or names actually used by the defendant.

(b) The plaintiff may request the court at any time, whether before or after judgment, to amend the plaintiff's claim or judgment to include both the correct legal name and the name or names actually used by the defendant. Upon a showing of good cause, the court shall amend the claim or judgment to state the correct legal name of the defendant, and the name or names actually used by the defendant.

(c) For purposes of this section, "fictitious business name" means the term as defined in Section 17900 of the Business and Professions Code.

116.570. (a) Any party may submit a written request to postpone a hearing date for good cause.

(1) The written request may be made either by letter or on a form adopted or approved by the Judicial Council.

(2) The request shall be filed at least 10 days before the hearing date, unless the court determines that the requesting party has good cause to file the request at a later date.

(3) On the date of making the written request, the requesting party shall mail or personally deliver a copy to each of the other parties to the action.

(4) (A) If the court finds that the interests of justice would be served by postponing the hearing, the court shall postpone the hearing, and shall notify all parties by mail of the new hearing date, time, and place.

(B) On one occasion, upon the written request of a defendant guarantor, the court shall postpone the hearing for at least 30 days, and the court shall take this action without a hearing. This subparagraph does not limit the discretion of the court to grant additional postponements under subparagraph (A).

(5) The court shall provide a prompt response by mail to any person making a written request for postponement of a hearing date under this subdivision.

(b) If service of the claim and order upon the defendant is not completed within the number of days before the hearing date required by subdivision (b) of Section 116.340, and the defendant has not personally appeared and has not requested a postponement, the court shall postpone the hearing for at least 15 days. If a postponement is ordered under this subdivision, the clerk shall promptly notify all parties by mail of the new hearing date, time, and place.

(c) This section does not limit the inherent power of the court to order postponements of hearings in appropriate circumstances.

(d) A fee of ten dollars (\$10) shall be charged and collected for the filing of a request for postponement and rescheduling of a hearing date after timely service pursuant to subdivision (b) of Section 116.340 has been made upon the defendant.

---