

## HOW TO VACATE/CANCEL A SMALL CLAIMS JUDGMENT

If you missed your small claims hearing, you can file a **Motion to Vacate**. A Motion to Vacate is a request that the court cancel the small claims court judgment entered against you. The amount of time to file a Motion to Vacate and process to prepare for your new hearing varies depending on if:

1. You were properly served court papers, but missed your hearing for good cause, such as you had a family or medical emergency.
2. You were never served court papers and were unaware that the small claims hearing took place.

**NOTE** – If you know you cannot attend the hearing date stamped on your SC-100/SC-500, file a [SC-150](#) – Request to Postpone Trial with the court clerk at least **10 days** before your hearing date.

<b>I knew about the small claims hearing and missed the court date:</b>	
<b>Timeline to File a Motion to Vacate</b>	<p>If you were properly served with the small claims documents and did not attend your small claims hearing, you can file a motion to vacate to contest the judgment. You must file <b>within 30 days after</b> the clerk mailed you the Notice of Entry of Judgment (Form SC-130 or Form SC-200).</p> <ul style="list-style-type: none"> <li>• To determine if you were properly served, watch <a href="#">this video here</a> outlining the landlord’s requirements for serving papers.</li> </ul> <p>If you never receive small claims court papers, see the chart below <i>“I only learned about the small claims case after the judgment was entered”</i></p>
<b>How to File a Motion to Vacate if you missed your court date</b>	<ol style="list-style-type: none"> <li>1. Fill out a Notice of Motion to Vacate Judgment and Declaration (<a href="#">Form SC-135</a>). <ul style="list-style-type: none"> <li>• Review a sample completed Form SC-135 <a href="#">here</a></li> <li>• In the declaration on the bottom half of the form SC-135, check the box and explain why you were unable to attend your small claims court hearing.</li> </ul> </li> <li>2. File the Form SC-135 with the small claims court clerk. File at the courthouse where the small claims hearing took place.</li> <li>3. Pay the filing fee. If you cannot afford the fee, <a href="#">ask for a fee waiver</a> or bring a completed <a href="#">FW-001</a>. You can find additional information about fee waivers at <a href="#">FW-001-INFO</a></li> <li>4. The clerk will assign you a hearing date. You <b>must</b> attend this hearing.</li> </ol>
<b>The Motion to Vacate Hearing &amp; Next Steps</b>	<p>During the motion to vacate hearing, you will explain to the judge why you missed the initial small claims hearing and show any proof to support why you could not attend.</p> <p>The judge will decide whether to or not to cancel, or “vacate,” the original judgment. If the judge <b>GRANTS</b> your motion to vacate, this means the court agrees to cancel the judgment. After granting your request to vacate, the court may:</p> <ul style="list-style-type: none"> <li>• Move forward with a trial on the merits of claims brought by the Plaintiff in the SC-100 or SC-500; <ul style="list-style-type: none"> <li>○ Bring relevant documents or witnesses with you so you are prepared to go to trial on the original case immediately.</li> <li>○ If you are being sued for COVID-19 rental debt, prepare defenses and evidence as discussed in the <a href="#">SC-500 INFO form</a>. General tips on how to best prepare for a small claims hearing can be found <a href="#">here</a>.</li> </ul> </li> <li>• OR, schedule the trial on the merits for a later date.</li> </ul>

**I only learned about the small claims case after the judgment was entered:**

<p><b>Timeline to file a Motion to Vacate</b></p>	<p>If you had no notice of the small claims court date, meaning you were not aware of the small claims case against you before the judgment was entered, you may file a motion to vacate. You must file the Motion to Vacate within <b>180 days</b> of learning about the judgment against you. It is best practice to file as soon as possible after learning of the judgment.</p>
<p><b>How to File a Motion to Vacate</b></p>	<ol style="list-style-type: none"> <li>1. Fill out a Notice of Motion to Vacate Judgment and Declaration (<a href="#">Form SC-135</a>). <ul style="list-style-type: none"> <li>• Review a sample completed SC-135 <a href="#">here</a></li> <li>• In the declaration on the bottom half of the page, explain to the court when and how you learned about the small claims judgment entered against you.</li> </ul> </li> <li>2. File the form SC-135 with the small claims court clerk. File at the courthouse where the small claims hearing took place.</li> <li>3. Pay the filing fee. If you cannot afford the fee, <a href="#">ask for a fee waiver</a> or bring a completed <a href="#">FW-001</a>. You can find additional information about fee waivers at <a href="#">FW-001 INFO</a>.</li> <li>4. The clerk will assign you a hearing date. You <b>must</b> attend this hearing.</li> </ol>
<p><b>The Motion to Vacate Hearing &amp; Next Steps</b></p>	<p>During the motion to vacate hearing, you will explain to the judge:</p> <ul style="list-style-type: none"> <li>• The landlord did NOT properly serve you with SC-100/SC-500 to notify you of your original hearing, and as a result, you were unaware of the lawsuit against you.</li> <li>• Bring evidence or proof (if you have any) to support you were not served and proof to show how/when you learned about the judgment.</li> </ul> <p>If the judge <b>GRANTS</b> your motion to vacate this means the court agrees to cancel the judgment. After granting your request to vacate, the court may:</p> <ul style="list-style-type: none"> <li>• Move forward with a trial on the merits of claims brought by the Plaintiff in the SC-100 or SC-500; <ul style="list-style-type: none"> <li>○ Bring relevant documents or witnesses with you so you are prepared to go to trial on the merits of the case immediately</li> <li>○ If you are being sued for COVID-19 rental debt, prepare defenses and evidence as discussed in the <a href="#">SC-500 INFO form</a>. General tips on how to best prepare for a small claims hearing can be found <a href="#">here</a>. .</li> </ul> </li> </ul> <p>OR, the judge will reschedule the trial on the merits for another date.</p>

## If your Motion to Vacate is denied

If the judge **DENIES** you request to vacate (cancel) the judgment, you can appeal the judge's denial of the motion. You must file your appeal with small claims clerk no later than **10 DAYS** after the judge's decision.

<b>How to file an appeal</b>	<ol style="list-style-type: none"><li>1. File a Notice of Appeal form with the small claims court clerk using <a href="#">Form SC-140</a>. Be sure to check the box on the form for "denial of a motion to vacate the small claims judgment."</li><li>2. File the Form SC-140 with the small claims court clerk. File at the courthouse where the small claims hearing took place.</li><li>3. Pay the filing fee. If you cannot afford the fee, <a href="#">ask for a fee waiver</a> or bring a completed <a href="#">FW-001</a>. You can find additional information about fee waivers at <a href="#">FW-001-INFO</a>.</li><li>4. The clerk will assign you a hearing date. You must attend this hearing.</li></ol>
<b>What to expect in the Motion to Vacate Appeal Hearing</b>	If the appeal is <b>GRANTED</b> – meaning the judge grants your request to vacate, the judge may hear your case immediately, or the judge will order a new trial on a future date. If the appeal is <b>DENIED</b> , you must pay the original judgment.

## Additional Resources:

LA DCBA Small Claims Advisor – Post Judgment Assistance Page:

<https://dcba.lacounty.gov/portfolio/motion-to-vacate-3/>

LA DCBA Small Claims Video Library:

<https://dcba.lacounty.gov/smallclaimsshortvideos/>

Judicial Council of California - "How to Vacate a Default Judgment"

<https://www.courts.ca.gov/12726.htm>

Judicial Council of California – Small Claims Forms Library:

<https://www.courts.ca.gov/1017.htm?rdeLocaleAttr=en>