USING YOUR SMALL CLAIMS COURT RIGHTS

BY RON JAVOR

A common question we hear is "Can I resolve my problem with a manager or park operator by using small claims court?" The answer is "Yes!" but you have to educate yourself on what you can sue for, where to sue, how to fill out necessary forms, what to do in court, and how to collect damages when you win.

There are some basics. You can sue a person or business for up to $12,500. If someone sues you in small claims court, you can file a "counter-claim" against them for anything you think and can prove they owe you (it doesn't have to relate to the lawsuit against you.).

Generally, you have to sue for money such as damages to your property or injury to yourself or repayment of costs you incurred because of another person. You need to file the lawsuit against the correct person or company. You need to file within certain time periods (for example, two years from a personal injury or from when the injury is discovered, two years from when an oral contract is broken, and four years from when a written contract is broken).

Be aware of procedures. You must send a written demand letter before filing the lawsuit. Court forms are required, but most courthouses have free "small claims advisors" who can assist with your form preparation. Fees are necessary unless you qualify as a lower income person for a waiver. In most courts, you may appear in person or by Zoom, although in-person appearances usually are more effective. You must have proof of your claim and share written documents with the defendant as well as the court.

What can you sue for? "Damages" and "harm" are very broad concepts. For example, if park management charges an improper fee or requires work not required by your lease, but with a threat of eviction if not complied with, you can pay the fee/do the work (to avoid the eviction threat) and then sue in small claims court for reimbursement of your costs. If a neighbor's flammable mess outside causes fire damage to you, you can sue both the neighbor and the park operator for failing to enforce the park rules on lot maintenance. Almost any violation of a park lease can be the basis of a small claims court action <u>if you can prove financial loss related to that violation</u>.

Other items of interest. It's not hard, except for the forms (that the "advisors" can help with). Just be prepared with an outline to cover everything

important and bring your documents with copies or witnesses to court. It helps to go to small claims court beforehand and watch what others do right or wrong. Most courts provide translators, but it helps to bring your own. Often you're not the only homeowner impacted by a management illegal action or inaction, so organize a group to file and have hearings at the same time and use each other's expertise. **REMEMBER: YOU MUST PROVE YOUR CASE, SO BE PREPARED TO DO SO.**

Other resources: There are two good official State plain-language resources for small claims court requirements and procedures. The CA Department of Consumer Affairs publishes one on-line at https://www.dca.ca.gov/publications/small_claims/index.shtml . The CA Judicial Council publishes on on-line at https://selfhelp.courts.ca.gov/small-claims .

Good luck!

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