

## Limited Civil Cases Outline

- **Generally**
  - A Limited Civil Case seeks money damages of \$25,000 or less.
    - Money damages are not the only type of available relief; other relief different from, and ancillary to, monetary damages is enumerated in statute.
  - The use of traditional forms of discovery is restricted but unique forms of discovery are allowed.
- **Purpose**
  - The special rules limiting discovery make it economically feasible for a lawyer to take a case where the potential damages are less than \$25,000.
  - Less costly and simpler discovery make pro per prosecution more viable.
- **Limited Discovery**
  - No more than 35 of any combination of interrogatories, requests for admission or inspection demands.
  - Only 1 oral or written deposition.
  - Any number of deposition subpoena duces tecum requiring the mailing documents.
  - Physical and mental examinations.
  - Identity of expert witnesses.
- **Discovery Tools Unique to Limited Civil Cases**
  - Case Questionnaire (*DISC-010*)
  - Form Interrogatory (*DISC-104*)
  - Request for Statement of Witnesses and Evidence (*DISC-015*)
  - Prepared testimony in lieu of direct testimony (*C.C.P. § 98*)
- **Case Questionnaires (*DISC-010*)**
  - Facilitates the exchange of fundamental information early in the lawsuit.
  - Can only be served by a plaintiff (or cross-complainant), in that plaintiff's complaint (or cross-complaint).
    - Must contain a blank form and a form already completed by the serving party.
  - A defendant's response must be served with their answer to the complaint.
- **Form Interrogatories (*DISC-104*)**
  - Created specifically for limited civil cases and is designed to work with the other unique forms of discovery.
- **Request for Statement of Witnesses and Evidence (*DISC-015*)**
  - Elicits information about the evidence intended to be introduced at trial.

- o A party served with this request may be barred from introducing evidence which was not included in the response.
- o Must be served 45 to 30 days before the first date set for trial.
- o Response must be served within 20 days from the service of the request.
- o The served party must provide:
  - Names and street addresses of witness.
  - A description of each document and a copy if it is available.
  - A description of each photograph and other physical evidence.
- **Prepared testimony in lieu of direct testimony (C.C.P. § 98)**
  - o The prepared testimony of relevant witnesses must be in the form of affidavits or declarations under penalty of perjury.
  - o As an affidavit:
    - Must be served on the party against whom it is offered at least 30 days prior to trial;
    - Must contain the affidavit's current address which is within 150 miles of the trial;
    - Must be available for service during a reasonable period of time during the 20 days immediately prior to trial.
  - o As part of a deposition:
    - The party against whom it is offered had an opportunity to participate in the deposition.
- **C.C.P. § 85 states that for a case to be limited civil, it must fulfill 3 requirements:**
  - o The amount in controversy does not exceed \$25,000;
  - o The relief sought is a type that may be granted in a Limited Civil Case;
  - o The relief sought is exclusively of a type described in statutorily enumerated limited civil actions, or actions that are statutorily enumerated as being within the original jurisdiction of the municipal court.
- **Amount in controversy**
  - o The amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys' fees, interest, and costs.
- **Types of relief that may be granted in a limited civil case**
  - o Money damages
  - o Dissolution of partnership
  - o Interpleader
  - o Cancel or rescind a contract, when in connection with an action to recover money or property that was paid or delivered under, or in consideration of the contract.
  - o Enforce and foreclose a lien on personal property

- o Relief related to liens on structures:
  - Enforce and foreclose, or a petition to release a lien arising from the construction of an improvement on real property.
  - Enforce and foreclose an assessment lien on a common interest development.
  
- o Declaratory relief, pursuant to:
  - A cross-complaint as to a right of indemnity.
  - Conducting a trial after a non-binding fee arbitration between an attorney and client.
  
- o Temporary restraining order or preliminary injunction in an existing limited civil case:
  - Take an account, when necessary to preserve the property or rights of any party.
  - Make any order, or perform any act pursuant to the enforcement of a judgment in a civil action.
  - Appoint a receiver.
  - Determine title to personal property seized.
  
- o Recovery of an interest in personal property, or enforcing the liability of the debtor of a judgment debtor.
  
- o Arbitration-related petitions:
  - A petition filed before the arbitration award becomes final and the matter to be resolved by arbitration is a limited civil case under *C.C.P. § 86(a)(1)-(9)*.
    - Or a petition filed after the award becomes final and the amount of the award, rulings, pronouncements and decisions are within *C.C.P. § 86(a)(1)-(9)*. (these exclude uninsured motorists)
  - Confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding.
  
- o Equitable relief in the form of:
  - A case to try title to personal property.
  - Equity pleaded as a defensive matter in an existing limited civil case.
  - A case to vacate a judgment or order of the court obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

- **Actions in the original jurisdiction of the municipal courts as found in C.C.P. § 85(c)**
  - Repossession of a mobile home.
  - Injunction or restraining order in relation to the violation of a mobile home park regulation.
  - Recovery against an individual who passes a check on insufficient funds.
  - Recovery for personal injury from dog attacks.
  - An action brought pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 if civil penalties are not sought or amount to twenty-five thousand dollars (\$25,000) or less.
  - Entry of a sister state judgment for the recovery of real property, or of an estate or interest therein, or for the determination in any form, of that right or interest, and for injuries to real property.
  - Actions in relation to the seizure of the following which are deemed to be a nuisance: pest seeds, produce containing pesticide residue, or eggs.
  - Recovery for damage to livestock or poultry caused by a dog.
  - A hearing on a declaration that a dog is potentially dangerous or vicious.
  - An action related to seeds seized because of violation of Nursery Stock Grades and Standards in the California Food and Agriculture Code.
  - An appeal of a final administrative order regarding the imposition, enforcement or collection of the administrative fines or penalties set down by a local agency.
  - A motion for the immediate return of a taxi cab or charter-party carrier of passengers, seized because its operation violated licensing regulations.
  - A proceeding in relation to the seizure, in whole or in part, of a vessel/vehicle because its identifying number was removed.
  - A proceeding in the civil case of a hearing for a claim on a vehicle which was impounded because the driver was not properly licensed.
  - A proceeding to review the final decision of an initial review of a parking violation or a toll evasion violation.

# CODE OF CIVIL PROCEDURE

## SECTION 85 - 89

### Actions treated as limited civil case

85.

**An action or special proceeding shall be treated as a limited civil case if all of the following conditions are satisfied, and, notwithstanding any statute that classifies an action or special proceeding as a limited civil case, an action or special proceeding shall not be treated as a limited civil case unless all of the following conditions are satisfied:**

(a) **The amount in controversy does not exceed twenty-five thousand dollars (\$25,000).** As used in this section, "amount in controversy" means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys' fees, interest, and costs.

(b) **The relief sought is a type that may be granted in a limited civil case.**

(c) **The relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of a type described in one or more statutes that classify an action or special proceeding as a limited civil case OR that provide that an action or special proceeding is within the original jurisdiction of the municipal court, including, but not limited to, the following provisions:**

***For (c)(1) through (22): See code. (List of cases that are within the original jurisdiction of the court.)***

(d) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

**NOTE:** A limited civil case cannot involve more than \$25,000, and is restricted in the type of relief that may be pleaded. This section dictates that no action shall be a limited civil action unless its provisions are met.

- The caption of every pleading filed in a limited civil case filed must be labeled "Limited Civil Case." (Code Civ. Proc., § 422.30, subd. (b))

### Jurisdiction

86.

(a) **The following civil cases and proceedings are limited civil cases:**

(1) **A case at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars (\$25,000) or less.** This paragraph **does not apply to a case that involves** the legality of any tax, impost, assessment, toll, or municipal fine, **except** an action to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) **An action for dissolution of partnership** where the total assets of the partnership **do not exceed twenty-five thousand dollars (\$25,000); an action of interpleader** where the amount of money or the value of the property involved **does not exceed twenty-five thousand dollars (\$25,000).**

(3) **An action to cancel or rescind a contract when the relief** is sought in connection with an action to recover money **not exceeding twenty-five thousand dollars (\$25,000) or property of a value not exceeding twenty-five thousand dollars (\$25,000)**, paid or delivered under, or in consideration of, the contract; **an action to revise a contract where the relief is sought in an action upon the contract if the action otherwise is a limited civil case.**

(4) **A proceeding in forcible entry or forcible or unlawful detainer** where the **whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or less.**

(5) **An action to enforce and foreclose a lien on personal property where the amount of the lien is twenty-five thousand dollars (\$25,000) or less.**

(6) **An action to enforce and foreclose, or a petition to release, a lien arising under Chapter 4** (commencing with Section 8400) of Title 2 of Part 6 of Division 4 of the Civil Code, or to enforce and foreclose an **assessment lien on a common interest development as defined in Section 4100 or 6534** of the Civil Code, where **the amount of the liens is twenty-five thousand dollars (\$25,000) or less. However, if an action to enforce the lien affects property that is also affected by a similar pending action that is not a limited civil case, or if the total amount of liens sought to be foreclosed against the same property aggregates an amount in excess of twenty-five thousand dollars (\$25,000), the action is not a limited civil case.**

(7) **An action for declaratory relief when brought pursuant to either of the following:**

(A) By way of **cross-complaint as to a right of indemnity** with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding that is otherwise a limited civil case.

(B) To conduct a **trial after a nonbinding fee arbitration between an attorney and client**, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of

Division 3 of the Business and Professions Code, where **the amount in controversy is twenty-five thousand dollars (\$25,000) or less.**

(8) An action to issue a **temporary restraining order or preliminary injunction**; to **take an account**, where necessary **to preserve the property or rights of any party** to a limited civil case; to **make any order or perform any act, pursuant to Title 9** (commencing with Section 680.010) of Part 2 (enforcement of judgments) in a limited civil case; to **appoint a receiver** pursuant to Section 564 in a limited civil case; to **determine title to personal property seized** in a limited civil case.

(9) **An action** under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 **for the recovery of an interest in personal property** or to **enforce the liability of the debtor** of a judgment debtor where **the interest claimed adversely is of a value not exceeding twenty-five thousand dollars (\$25,000) or the debt denied does not exceed twenty-five thousand dollars (\$25,000).**

(10) **An arbitration-related petition filed pursuant to either of the following:**

(A) **Article 2** (commencing with Section 1292) of **Chapter 5 of Title 9 of Part 3, except for uninsured motorist** arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, **if** the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is a limited civil case under paragraphs (1) to (9), inclusive, of subdivision (a) **or if** the petition is filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within paragraphs (1) to (9), inclusive, of subdivision (a).

(B) To **confirm, correct, or vacate a fee arbitration award between an attorney and client** that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where **the arbitration award is twenty-five thousand dollars (\$25,000) or less.**

(b) **The following cases in equity are limited civil cases:**

(1) **A case to try title to personal property when the amount involved is not more than twenty-five thousand dollars (\$25,000).**

(2) A case when **equity is pleaded as a defensive matter in any case that is otherwise a limited civil case.**

(3) A case to **vacate a judgment or order of the court** obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

**NOTE:** The actions in this section that relate to real property are restricted to actions that involve entry on the property, forcible detainer, and liens.

## **Long-Term Care, Health, Safety, and Security Act of 1973**

### **86.1**

An **action brought pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973** (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) is a limited civil case **if civil penalties are not sought or amount to twenty-five thousand dollars (\$25,000) or less.**

## **Small claims**

### **87.**

(a) A **limited civil case may be brought in the small claims** division **if the case is within the jurisdiction of the small claims** division as otherwise provided by statute. **Where a statute or rule applicable to a small claims case conflicts** with a statute or rule applicable to a limited civil case, **the statute or rule applicable to a small claims case governs** the small claims case and the statute or rule applicable to a limited civil case does not.

(b) Nothing in this section affects the jurisdiction of the small claims division as otherwise provided by statute.

**NOTE:** A limited civil action may be able to be brought in small claims court, but the rules of small claims court will govern the action.

## **Unlimited civil case**

### **88.**

A civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case.



## Limited and unlimited civil cases

89.

(a) The **existence of a statute relating to** authority of the court in a limited civil case **does not, by itself, imply** that the same authority **does or does not exist** in an unlimited civil case.

(b) The **existence of a statute relating to** the authority of the court in an unlimited civil case **does not, by itself, imply** that the same authority **does or does not exist** in a limited civil case.

# CODE OF CIVIL PROCEDURE

## SECTION 90 – 100

### Application of law applicable to civil actions

90.

Except where changed by the provisions of this article, all provisions of law applicable to civil actions generally apply to actions subject to this article.

### Application of article provisions

91.

(a) Except as otherwise provided in this section, **the provisions of this article apply to every limited civil case.**

(b) **The provisions of this article do not apply** to any action under Chapter 5.5 (commencing with Section **116.110**) or any proceeding under Chapter 4 (commencing with Section **1159**) of Title 3 of Part 3.

(c) **Any action may**, upon noticed motion, **be withdrawn from the provisions of this article**, upon a showing that it is **impractical to prosecute or defend** the action **within the limitations** of these provisions.

**NOTE:** The provisions of this article will not be applied to cases in **small claims** court or those dealing with **unlawful detainer**. Discovery in a limited civil action might not be restricted if those restrictions make the action impractical to prosecute or defend.

### Pleadings; answer; motions

92.

(a) The **pleadings allowed** are **complaints, answers, cross-complaints, answers to cross-complaints** and **general demurrers**.

(b) **The answer need not be verified**, even if the complaint or cross-complaint is verified.

(c) **Special demurrers are not allowed.**

(d) **Motions to strike are allowed only** on the ground that the **damages or relief sought are not supported** by the allegations of the complaint.

(e) Except as limited by this section, all other motions are permitted.

## Questionnaires

93.

(a) The **plaintiff has the option to serve case questionnaires with the complaint**, using forms approved by the Judicial Council. The questionnaires served shall include a completed copy of the plaintiff's completed case questionnaire, and a blank copy of the defendant's case questionnaire.

(b) Any **defendant** upon whom a case questionnaire is served **shall serve a completed defendant's case questionnaire upon the requesting plaintiff with the answer.**

(c) The case questionnaire shall be **designed to elicit fundamental information about each party's case**, including **names and addresses of all witnesses** with knowledge of any relevant facts, a **list of all documents** relevant to the case, a **statement of the nature and amount of damages**, and **information covering insurance coverages, injuries and treating physicians**. The Judicial Council shall design and develop forms for case questionnaires.

(d) Approved forms shall be made **available by the clerk of the court.**

(e) **If a party** on whom a case questionnaire has been served under subdivision (a) or (b) **fails to serve a timely or a complete response** to that questionnaire, the party serving the questionnaire **may move** for an order **compelling a response** or a **further response** and for a **monetary sanction** under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4. **If a party then fails to obey an order** compelling a response or a further response, the court may make those orders that are just, including the imposition of an **issue sanction**, an **evidence sanction**, or a **terminating sanction** under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4. **In lieu of or in addition** to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4.

**NOTE:** Only a plaintiff or cross-claimant has the option of serving the questionnaire. The Questionnaire is designed to make discovery in a limited civil action easier and cheaper. The requirement that plaintiff serve a completed questionnaire ensures that both sides benefit.

## Limitation of discovery for limited civil cases

94.

**Discovery is permitted only to the extent provided by this section and Section 95.**

This discovery **shall comply with the notice and format requirements of the particular method of discovery**, as provided in Title 4 (commencing with Section 2016.010) of Part 4. As to each adverse party, a party may use the following forms of discovery:

(a) **Any combination of 35 of the following:**

(1) **Interrogatories (with no subparts)** under Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4.

(2) **Demands to produce documents or things** under Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4.

(3) **Requests for admission (with no subparts)** under Chapter 16 (commencing with Section 2033.010) of Title 4 of Part 4.

(b) **One oral or written deposition** under Chapter 9 (commencing with Section 2025.010), Chapter 10 (commencing with Section 2026.010), or Chapter 11 (commencing with Section 2028.010) of Title 4 of Part 4. For purposes of this subdivision, **a deposition of an organization shall be treated as a single deposition even though more than one person may be designated** or required to testify pursuant to Section 2025.230.

(c) Any party may serve on any person a **deposition subpoena duces tecum** requiring the person served to mail copies of documents, books, or records to the party's counsel at a specified address, along with an affidavit complying with Section 1561 of the Evidence Code.

The party who issued the deposition subpoena shall mail a copy of the response to any other party who tenders the reasonable cost of copying it.

(d) **Physical and mental examinations** under Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4.

(e) The **identity of expert witnesses** under Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4.

**NOTE:** Deposition subpoenas, examinations and requests for the identity of expert witnesses are not limited.

## **Additional discovery**

**95.**

(a) **The court may**, on noticed motion and subject to such terms and conditions as are just, **authorize** a party to conduct **additional discovery**, **but only** upon a showing that **the moving party will be unable to prosecute or defend the action effectively without the additional discovery**. In making a determination under this section, the **court shall take into account** whether the moving party has **used all applicable discovery in good faith**, and whether the party has **attempted to secure the additional discovery by stipulation or by means other than formal discovery**.

(b) **The parties may stipulate to additional discovery**.

**NOTE:** Additional discovery may be difficult to attain if previous discovery was not done in good faith, or if the moving party has not already tried to stipulate additional discovery with the opposing party.

## **Request for statement of witnesses, and description and copies of evidence**

**96.**

(a) **Any party may serve on any other party a request in substantially the following form:**

TO: \_\_\_\_\_,

attorney for: \_\_\_\_\_

You are requested to serve on the undersigned, within 20 days, a statement of: the names and addresses of witnesses (OTHER THAN A PARTY WHO IS AN INDIVIDUAL) you intend to call at trial; a description of physical evidence you intend to offer; and a description and copies of documentary evidence you intend to offer or, if the documents are not available to you, a description of them. Witnesses and evidence that will be used only for impeachment need not be included. YOU WILL NOT BE PERMITTED TO CALL ANY WITNESS, OR INTRODUCE ANY EVIDENCE, NOT INCLUDED IN THE STATEMENT SERVED IN RESPONSE TO THIS REQUEST, EXCEPT AS OTHERWISE PROVIDED BY LAW.

(b) The request shall be **served no more than 45 days or less than 30 days prior to the date first set for trial**, unless otherwise ordered.

(c) A **statement responding to the request shall be served within 20 days** from the service of the request.

(d) No additional, amended or late statement is permitted **except** by written stipulation or **unless** ordered for good cause on noticed motion.

(e) **No request or statement** served under this section shall be filed, **unless otherwise ordered**.

(f) The clerk shall furnish forms for requests under this rule.

(g) The time for performing acts required under this section shall be computed as provided by law, including Section 1013.

**NOTE:** This request must be served between 45 and 30 days before the trial date.

## **Prohibition of witness/evidence not included in statement upon objection**

**97.**

(a) Except as provided in this section, **upon objection** of a party who served a request in compliance with Section 96, **no party required to serve a responding statement may call a witness or introduce evidence**, except for purposes of impeachment, **against the objecting party unless the witness or evidence was included in the statement served**.

(b) **The exceptions to subdivision (a) are:**

(1) **A person** who, in his or her **individual capacity**, is a party to the litigation and who **calls himself or herself as a witness**.

(2) **An adverse party**.

(3) **Witnesses and evidence used solely for purposes of impeachment**.

(4) **Documents obtained by discovery authorized by this chapter**.

(5) The court may, upon such terms as may be just (including, but not limited to, continuing the trial for a reasonable period of time and awarding costs and litigation expenses), **permit a party to call a witness or introduce evidence** which is required to be, but is not included in such party's statement **so long as the court finds that such party has made a good faith effort to comply with subdivision (c) of Section**

**96** or that **the failure to comply was the result of his or her mistake, inadvertence, surprise or excusable neglect** as provided in Section 473.

(c) Nothing in this article limits the introduction of evidence in any hearing pursuant to Section 585.

**NOTE:** This section pertains to a situation where a party submits a request under section 96, and the served party either does not respond or attempts to enter evidence that was not included in the response to the request.

### **Prepared testimony in lieu of direct testimony**

**98.**

A party may, **in lieu of presenting direct testimony, offer the prepared testimony of relevant witnesses in the form of affidavits or declarations** under penalty of perjury. The prepared testimony may include, but need not be limited to, the **opinions of expert witnesses, and testimony which authenticates documentary evidence. To the extent** the contents of the prepared testimony would have been **admissible** were the witness to testify orally thereto, **the prepared testimony shall be received as evidence in the case, provided that either of the following applies:**

(a) A copy has been **served** on the party against whom it is offered **at least 30 days prior to the trial**, together with a **current address of the affiant** that is **within 150 miles of the place of trial**, and the **affiant is available** for service of process at that place **for a reasonable period of time, during the 20 days immediately prior to trial.**

(b) The **statement is in the form of all or part of a deposition** in the case, and the **party against whom it is offered** had an **opportunity to participate** in the deposition.

The court shall determine whether the affidavit or declaration shall be read into the record in lieu of oral testimony or admitted as a documentary exhibit.

### **Judgment or final order**

**99.**

A judgment or final order, in respect to the matter directly adjudged, is conclusive between the parties and their successors in interest **but does not operate as collateral estoppel of a party** or a successor in interest to a party **in other litigation with a person who was not a party** or a successor in interest to a party **to the action in which the judgment or order is rendered.**

**NOTE:** This section disallows the use of non-mutual collateral estoppel against a party/successor of the limited civil action.

## **Appeals**

**100.**

**Any party shall have the right to appeal any judgment or final order consistent with the law governing appeals.**

**NOTE:** A limited civil action does not have special rules governing their appeal.

## **LIMITED CIVIL CASE REVIEW QUESTIONS**

- What cases generally fall under the designation “limited civil case”?
- Why is traditional Discovery restricted in limited civil cases?
- What three form of Discovery are restricted to a combined 35?
- What are the four forms of discovery unique to limited civil actions?