

Automobile Accident

This information is for informational purposes only. It should not be considered legal advice. For legal advice consult an attorney.

Who do I sue?

You usually **DO NOT** sue the insurance company of the driver or owner of the vehicle.

You should name the driver and the registered owner (if they are different) of the vehicle as Defendants in your claim. The owner of a motor vehicle is liable and responsible for death or injury of a person or property sustained by that vehicle. (Vehicle Code §17150)

For example: If the owner and driver is the same person, "John Doe, owner and driver." If the owner and driver are not the same person: "John Doe, owner" and "Jane Doe, driver."

What if the driver is a minor?

You should name the minor and his or her parents.

A parent, guardian, or person who has custody of a minor may be held jointly and severally liable for any damages proximately resulting from the negligent or wrongful act or omission of the minor in driving a motor vehicle if he or she (1) signed or verified the minor's application for a license or (2) gave the minor express or implied permission to drive the motor vehicle. (VC § 17700, 17701, 17701, 17708)

What if I don't know the other party's address?

- Hopefully, you got the name and address of the driver (and registered owner, if they are different) of the other vehicle at the time of the accident.
- You can get this information from the police report.
- Your insurance company can get this information through the DMV. (The DMV will not release residential addresses to litigants and process servers.)
- You can contact a private investigator who may be able to obtain the information.
- If you know where the defendant works you can use their work address on your claim.

How do I suspend the Judgment Debtor's driver's license?

This option is **ONLY** available if the judgment involves the Judgment Debtor's motor vehicle in an auto accident case and the judgment has not been paid within 30 days of the judgment date.

1. **If it is \$750 or Less of Damages**, you may have the license suspended for 90 days. Complete the form **DL-17** (attained from the DMV) and file it both at the DMV and the courthouse where the judgment was entered.
2. **If it is \$750 or more of Damages**, you may have the license suspended indefinitely until the Debtor pays the entire amount. Complete the form **DL-30** (attained from the DMV) and file it both at the DMV and the courthouse where the judgment was entered

For more information on these procedures: Contact the local DMV or visit www.dmv.ca.gov (Small Claims Ultimate Guide v. 2.0 p58)

What if the driver lives in a different state?

You can file in the county where any of the following apply:

- Where the defendant lives or does business
- Where your property was damaged/ accident occurred
- Where you, the plaintiff, were injured

You serve the Director of the DMV requesting a return receipt; along with a \$2.00 check made payable to the DMV for each defendant being served (CCP 116.340 (g)). Send it to:

Office of the Director
Department of Motor Vehicles
Attn: Legal Office, E-128
2415 First Ave.
Sacramento, CA 95818

For each defendant, file both of these **at least five days** before your hearing date:

- *Proof of Service*
- *Acknowledgment of Receipt* (your return receipt) from the DMV

Note: If you get a judgment against an out-of-state individual who does not have assets in California, you cannot enforce your judgment in California. You will need to register your judgment in the state where the out-of-state individual has funds and collect your judgment through that state. This can be expensive and time consuming.

How do I prepare for my hearing?

Make sure you bring any and all records you may need to prove your case. If there was a police report, you should subpoena those records by filing the "*Small Claims Subpoena and Declaration*" Form L-0520 or SC-107.