

I have put together, in consultation with a California Small Claims Expert, the following summary of the law pertaining to Small Claims actions. - Brian

Intentional Wrongs (Torts) (Intentional Harm to the Person or Their Property)

A person may sue for intentional torts in Small Claims court. There are no laws excluding the following intentional torts from Small Claims court:

- : Fraud – intentional and knowing misrepresentations of fact. California Civil Code, section 1571. See also, Constructive Fraud, California Civil Code, section 1572.
 - o If consumer fraud was involved, then also see California Civil Code, sections 1750 through 1784, which includes the sections stated above.
- : Defamation – California Civil Code, section 44
 - o Libel means written documents damaging the reputation or business of the person, California Civil Code, section 45
 - o Slander means spoken statements damaging the reputation or business of the person, California Civil Code, section 46
- : Battery and Assault – intentionally touching or hitting the person without their consent; or threatening to touch or hit the person without their consent, California Civil Code, sections 43 and 1708

Actual Damages are damages, which the person can prove they suffered, for example, lost salary because they could not work because of the wrong the other party caused. These are required, but they are usually assumed where the plaintiff proves an intentional wrong (tort). In Defamation cases they are called ‘special damages’. California Civil Code, section 48a.

Punitive Damages

As in any other court, punitive damages are allowed. (There is no law saying you cannot ask for these in Small Claims court. For example, a small punitive damage award is often allowed for bad checks.) Punitive damages are intended to punish the defendant.

- Note: They are rarely awarded in Small Claims court. The plaintiff must claim at least \$1.00 in actual damages California Civil Code, section 3360, in order to ask for punitive damages.

- Punitive Damages for Fraud are in California Civil Code, section 3294.
- Punitive Damages (also called exemplary damages) for defamation are allowed under California Civil Code, section 48a.

Amount of Claim Allowed in Small Claims Court

The of amount of the claim allowed in Small Claims court for natural persons suing is up to a total of \$7,500. California Court of Civil Procedure, section 116.221. For other plaintiffs the amount allowed is up to \$5,000. California Court of Civil Procedure, section 116.220.