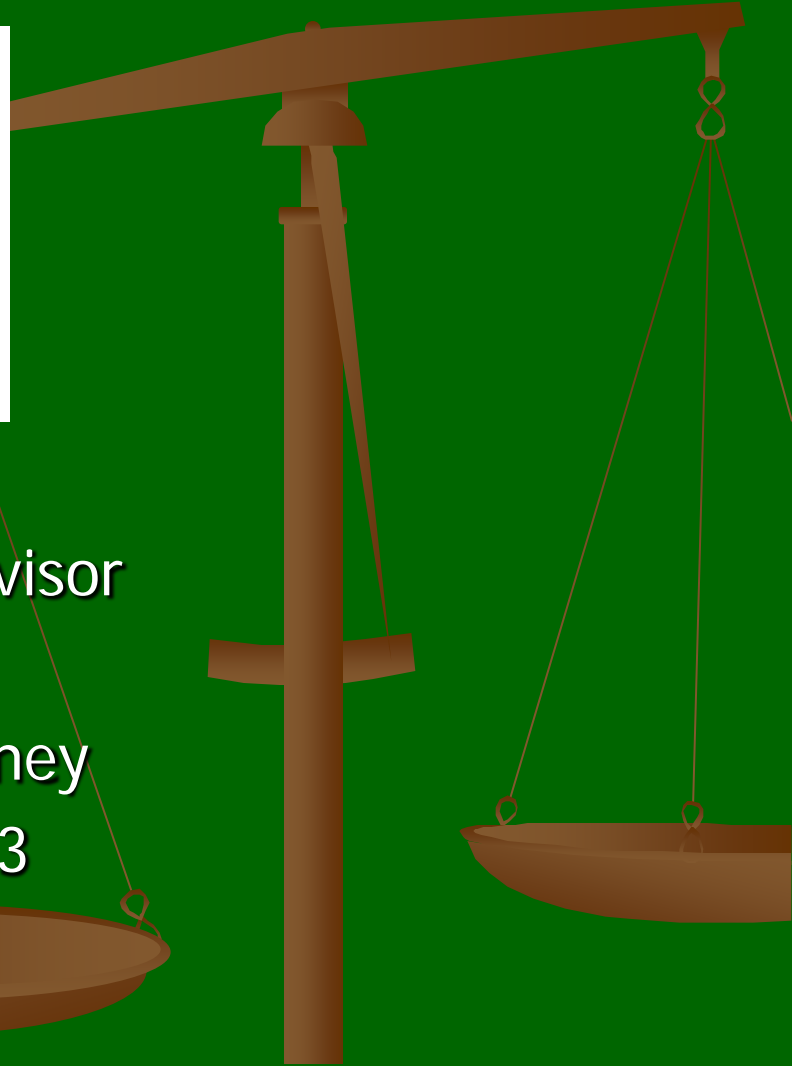


Going to Small Claims Court

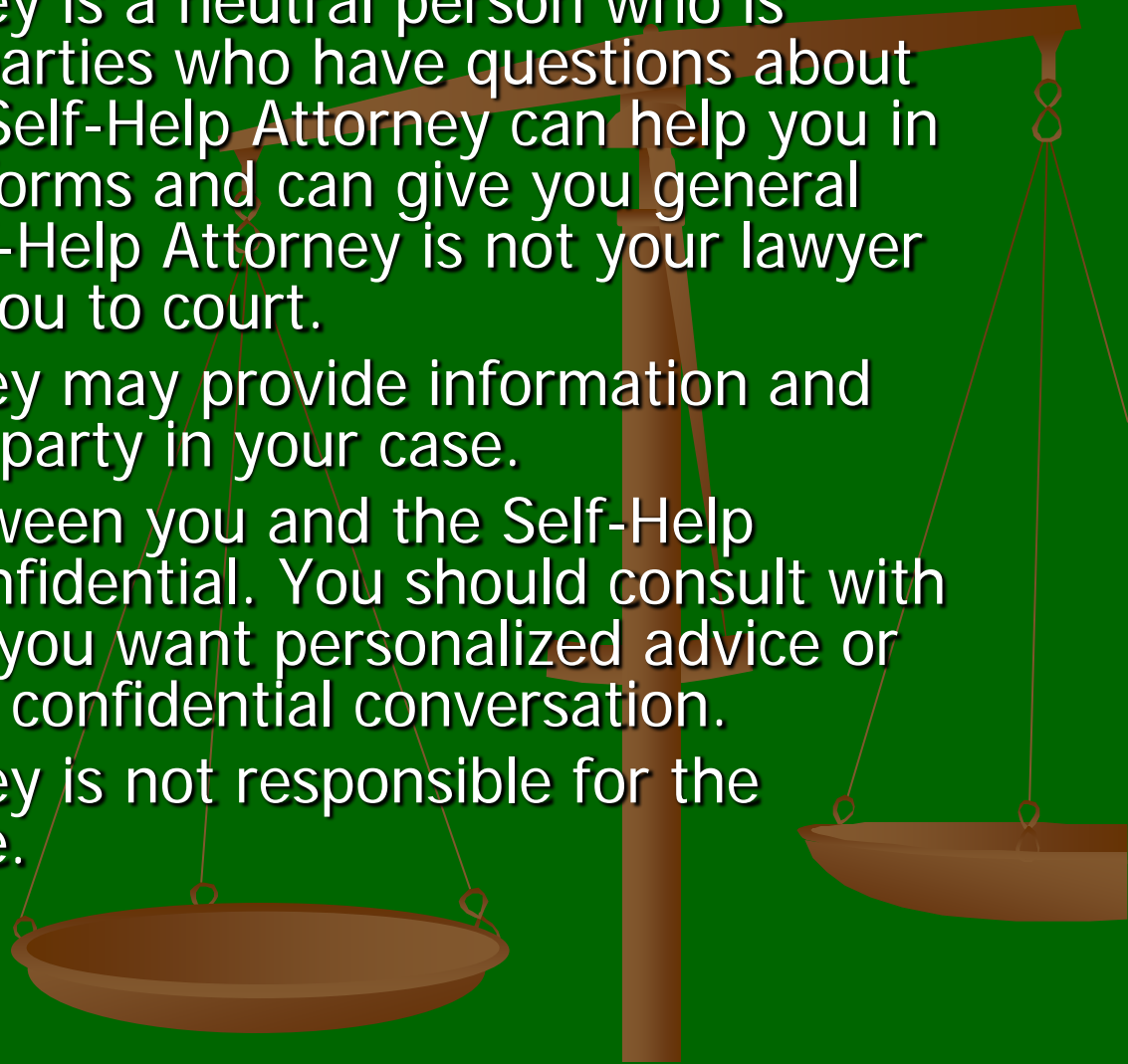


Small Claims Advisor
and
Self-Help Attorney
707-269-1223



DISCLOSURE

- The Self-Help Attorney is a neutral person who is available to help all parties who have questions about civil law issues. The Self-Help Attorney can help you in preparing your own forms and can give you general information. The Self-Help Attorney is not your lawyer and cannot go with you to court.
- The Self-Help Attorney may provide information and services to the other party in your case.
- Communications between you and the Self-Help Attorney are NOT confidential. You should consult with your own attorney if you want personalized advice or strategy or to have a confidential conversation.
- The Self-Help Attorney is not responsible for the outcome of your case.



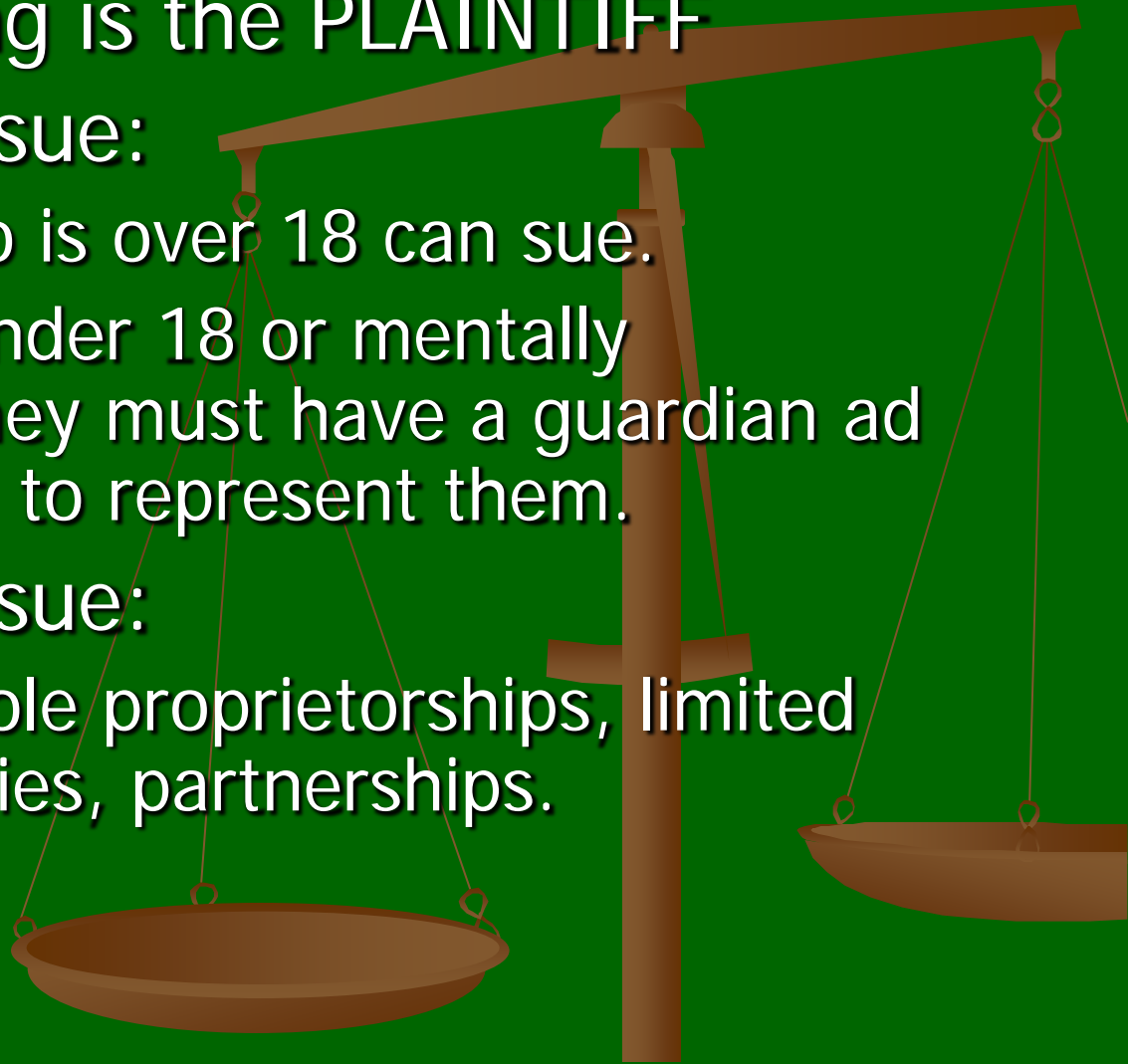
BEFORE YOU FILE YOUR CASE

- WHO can sue or be sued?
- WHEN to sue?
- WHERE to sue?
- WHAT you need to do after you file?



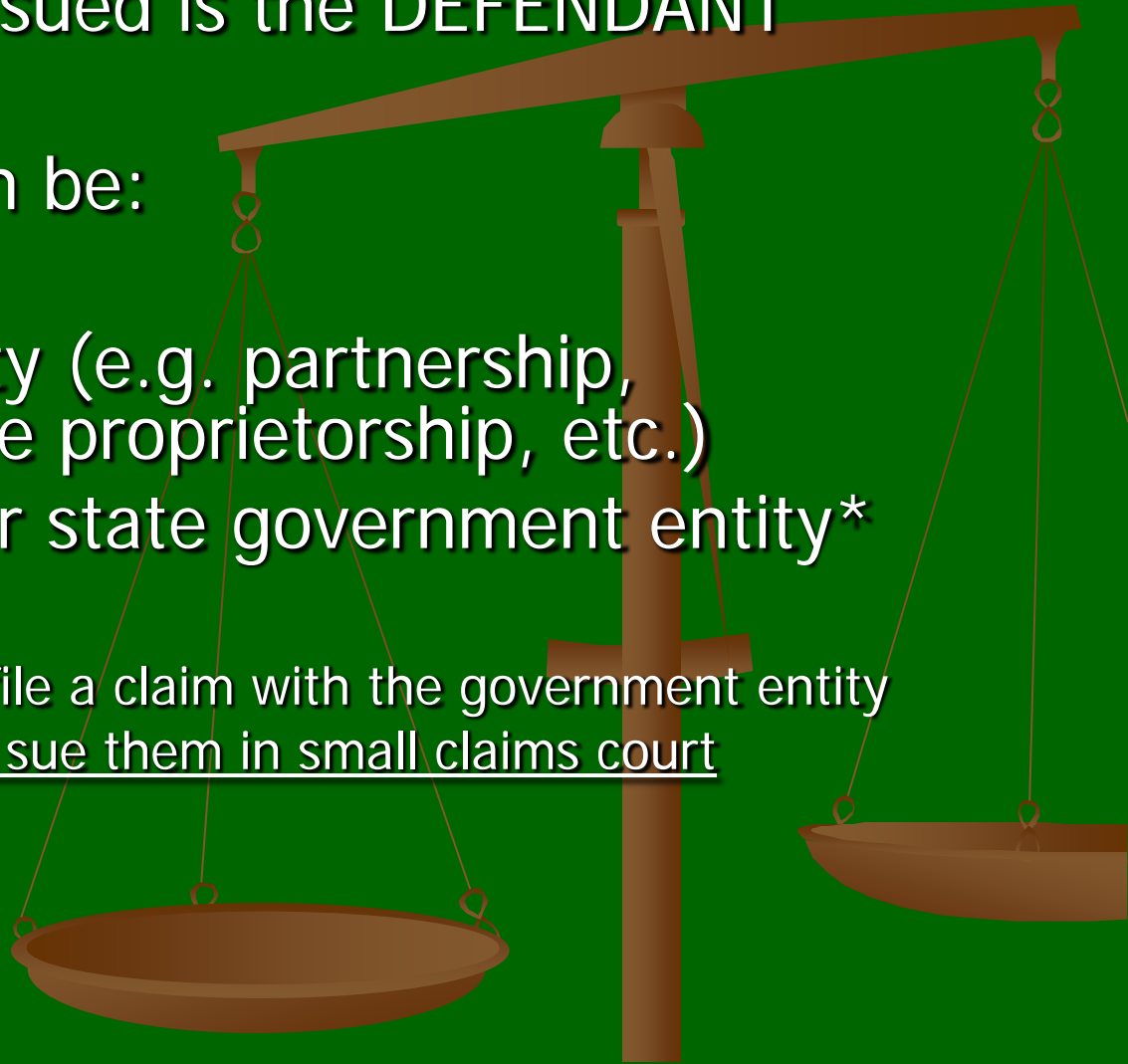
WHO CAN SUE?

- The person suing is the PLAINTIFF
- Individuals can sue:
 - Any person who is over 18 can sue.
 - If a person is under 18 or mentally incompetent, they must have a guardian ad litem appointed to represent them.
- Businesses can sue:
 - Corporations, sole proprietorships, limited liability companies, partnerships.



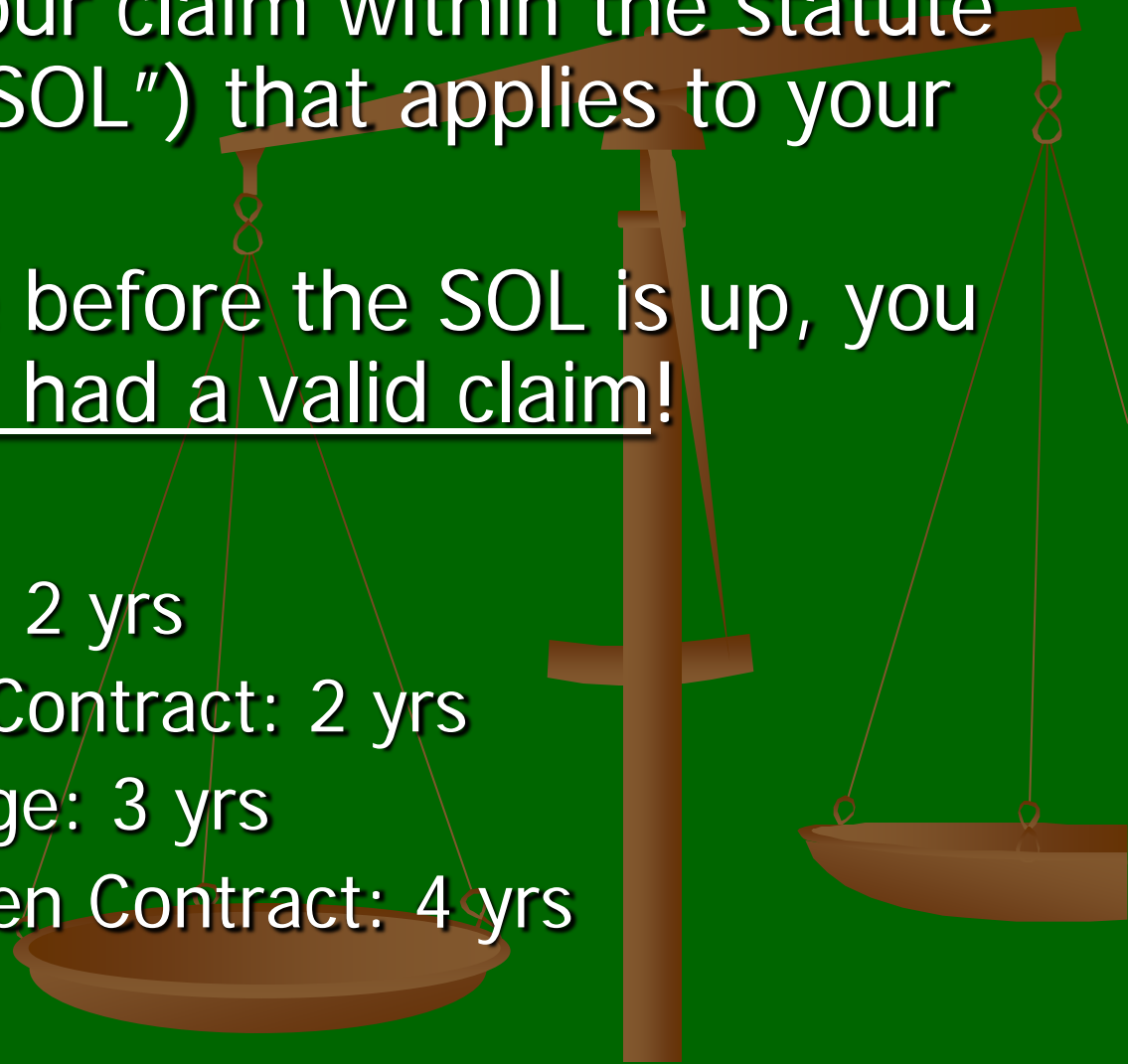
WHO CAN BE SUED?

- The person being sued is the DEFENDANT
- A DEFENDANT can be:
 - An individual
 - A business entity (e.g. partnership, corporation, sole proprietorship, etc.)
 - A city, county or state government entity*
 - *NOTE* → You must file a claim with the government entity
 - BEFORE you sue them in small claims court



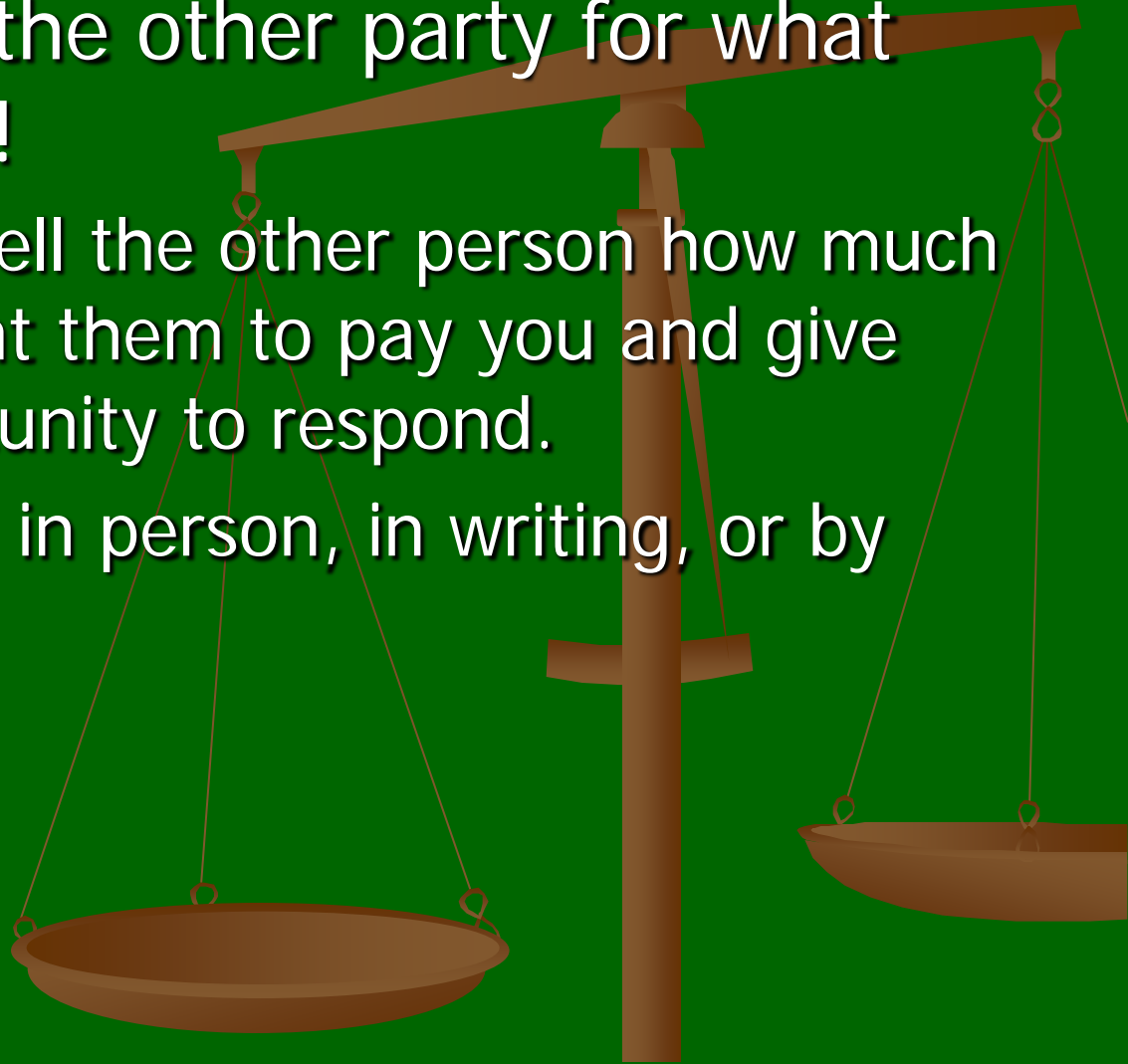
WHEN SHOULD I SUE?

- You must file your claim within the statute of limitations ("SOL") that applies to your claim.
- If you don't sue before the SOL is up, you lose even if you had a valid claim!
- Common SOLs:
 - Personal injury: 2 yrs
 - Breach of Oral Contract: 2 yrs
 - Property Damage: 3 yrs
 - Breach of Written Contract: 4 yrs



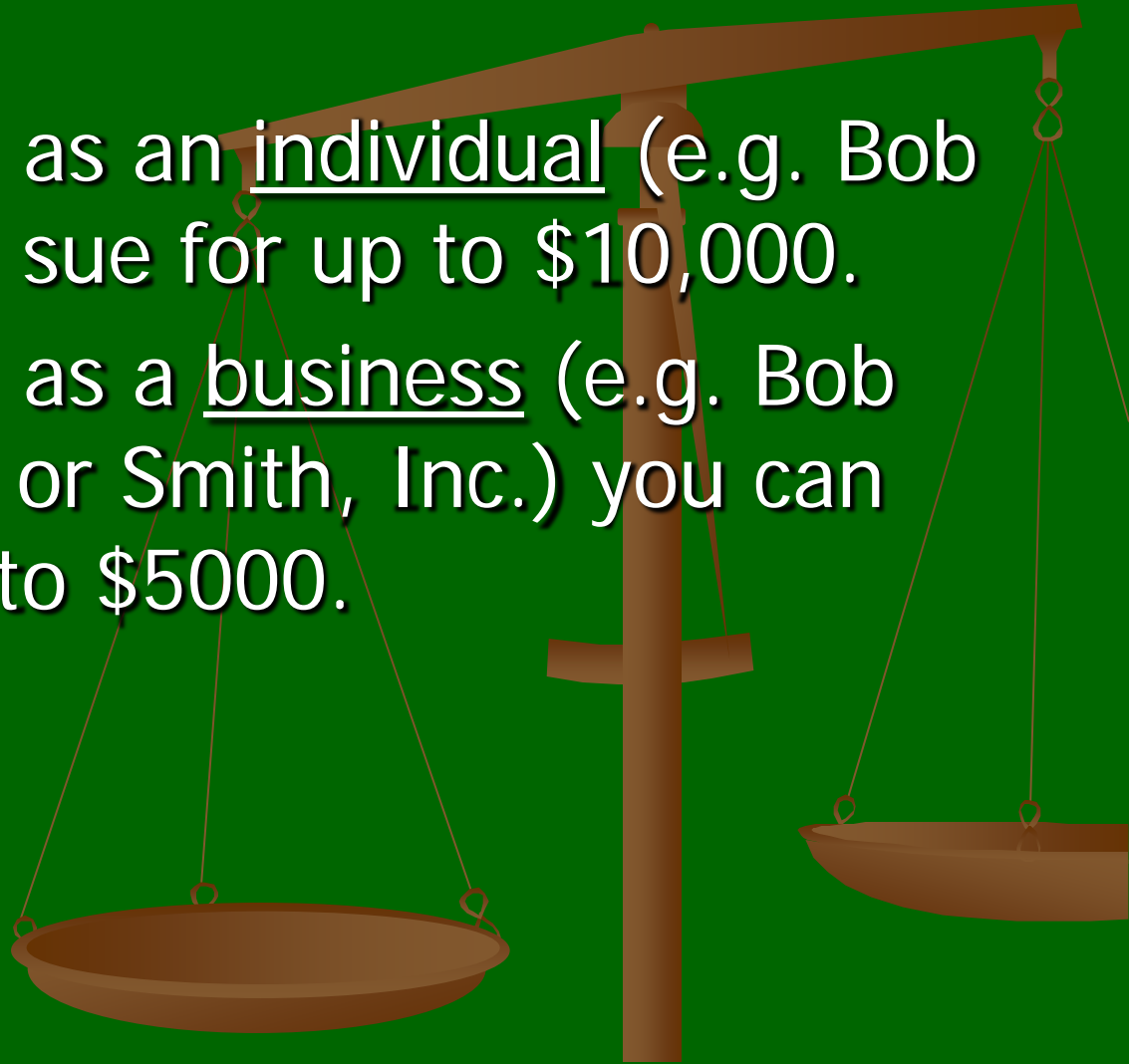
WHEN SHOULD I SUE, cont...

- AFTER you ask the other party for what you're suing for!
 - You must first tell the other person how much money you want them to pay you and give them an opportunity to respond.
 - You can do this in person, in writing, or by phone.



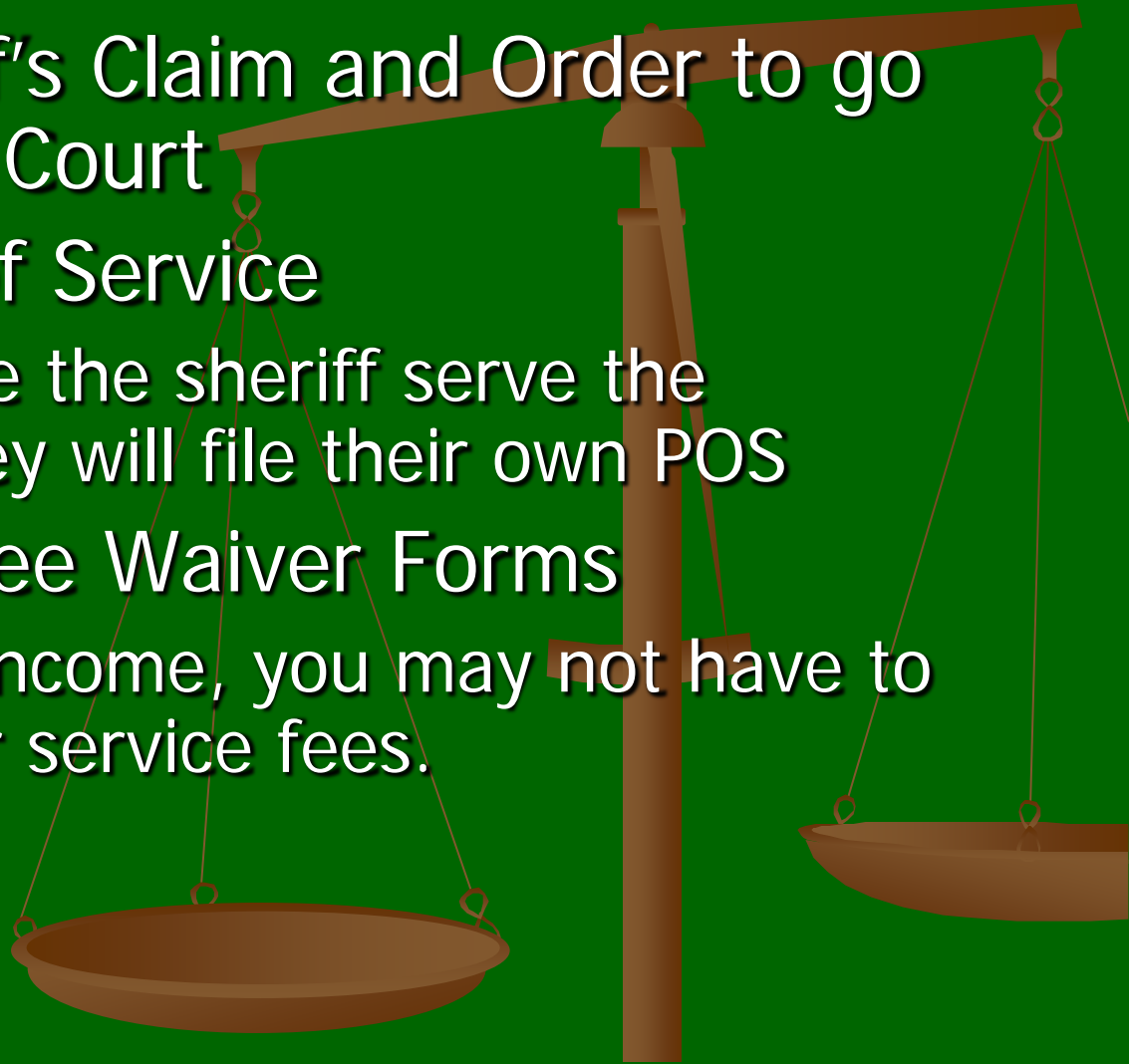
HOW MUCH CAN I SUE FOR?

- If you are suing as an individual (e.g. Bob Smith), you can sue for up to \$10,000.
- If you are suing as a business (e.g. Bob Smith Plumbing or Smith, Inc.) you can only sue for up to \$5000.



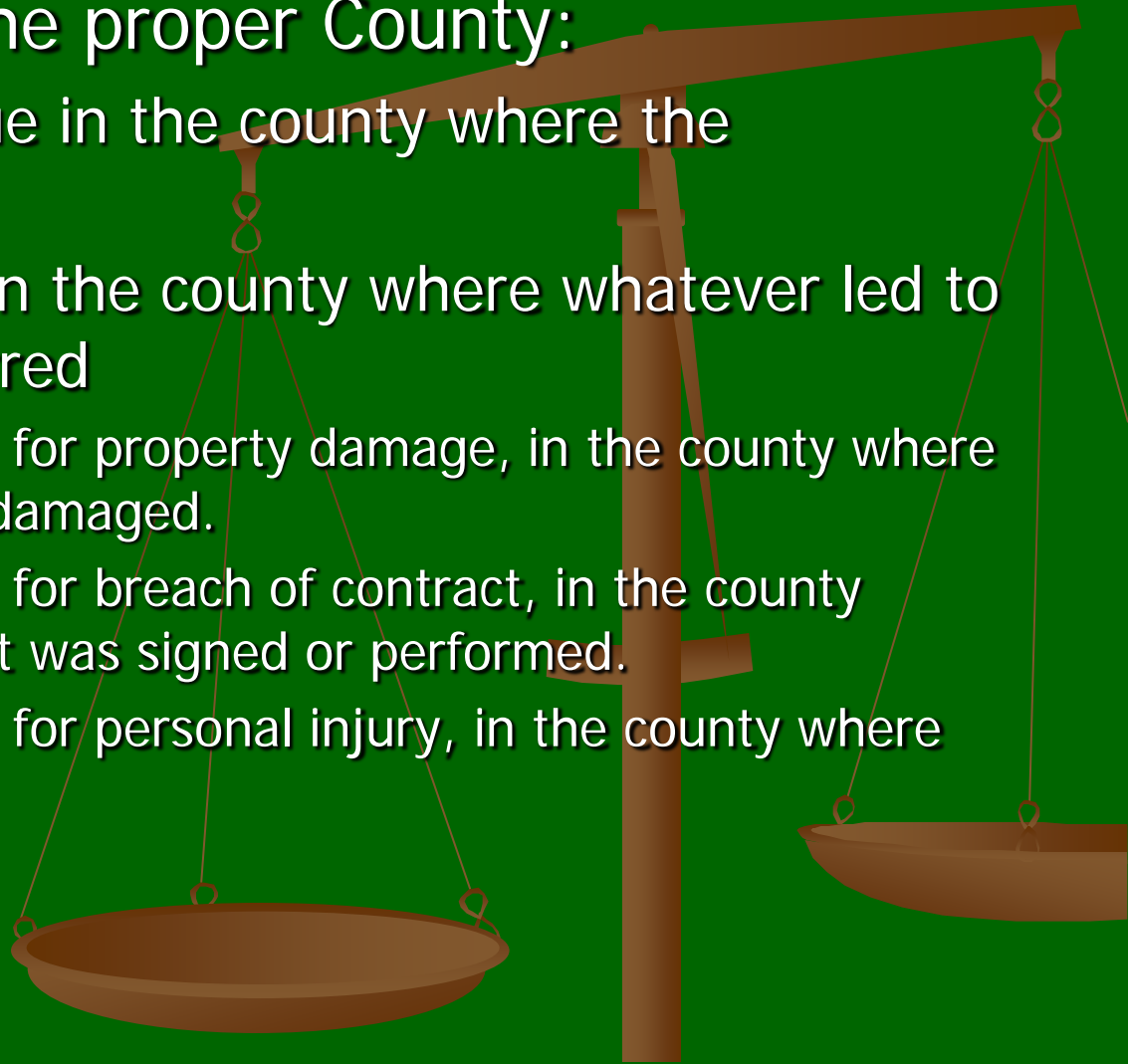
WHAT FORMS DO I NEED?

- SC-100: Plaintiff's Claim and Order to go to Small Claims Court
- SC-104: Proof of Service
 - Unless you have the sheriff serve the defendant – they will file their own POS
- FW-001, 003: Fee Waiver Forms
 - If you are low-income, you may not have to pay the filing or service fees.



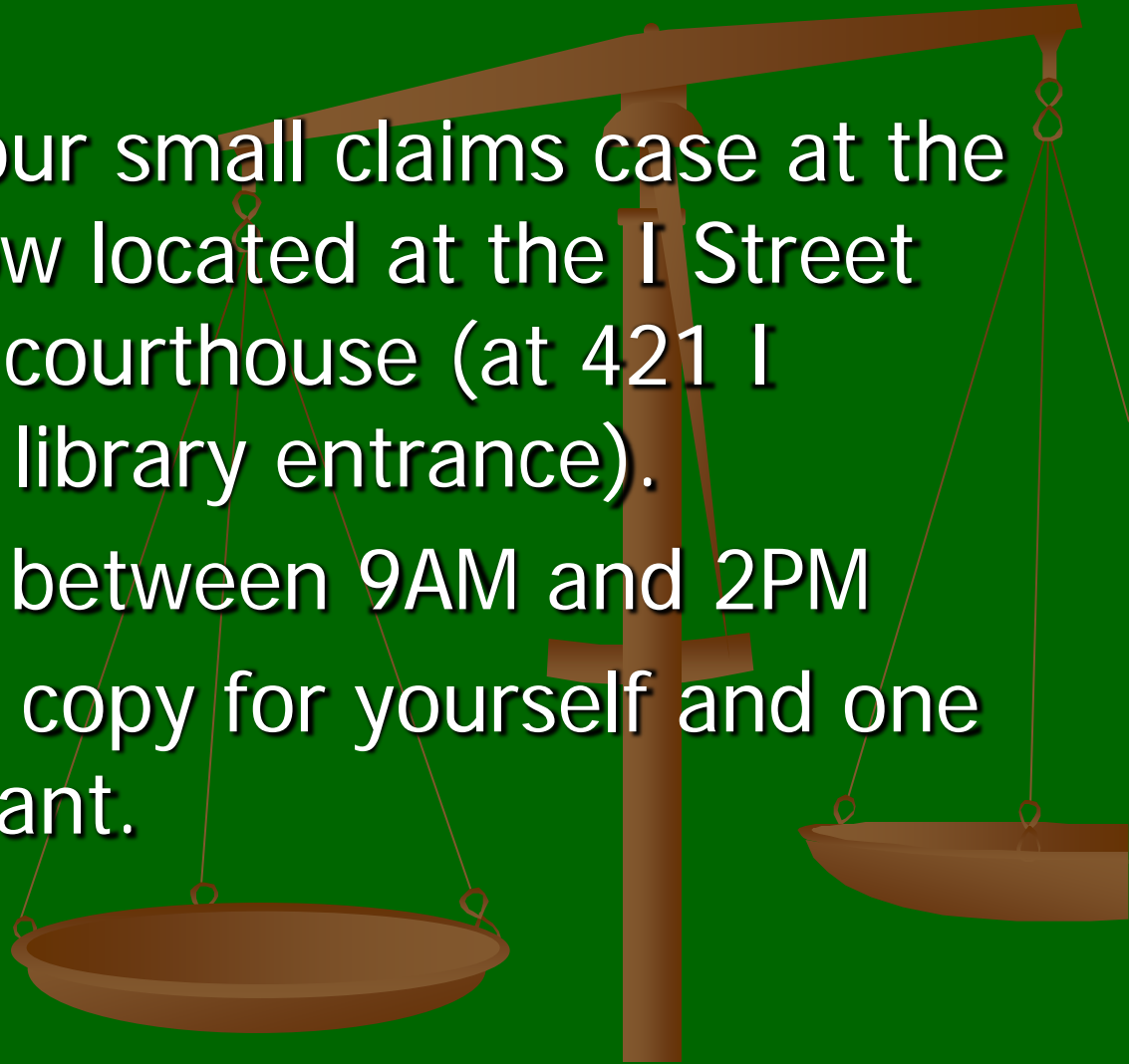
WHERE DO I SUE?

- You must sue in the proper County:
 - You can always sue in the county where the Defendant lives.
 - You can also sue in the county where whatever led to your lawsuit occurred
 - Ex. If you're suing for property damage, in the county where the property was damaged.
 - Ex. If you're suing for breach of contract, in the county where the contract was signed or performed.
 - Ex. If you're suing for personal injury, in the county where you were injured.



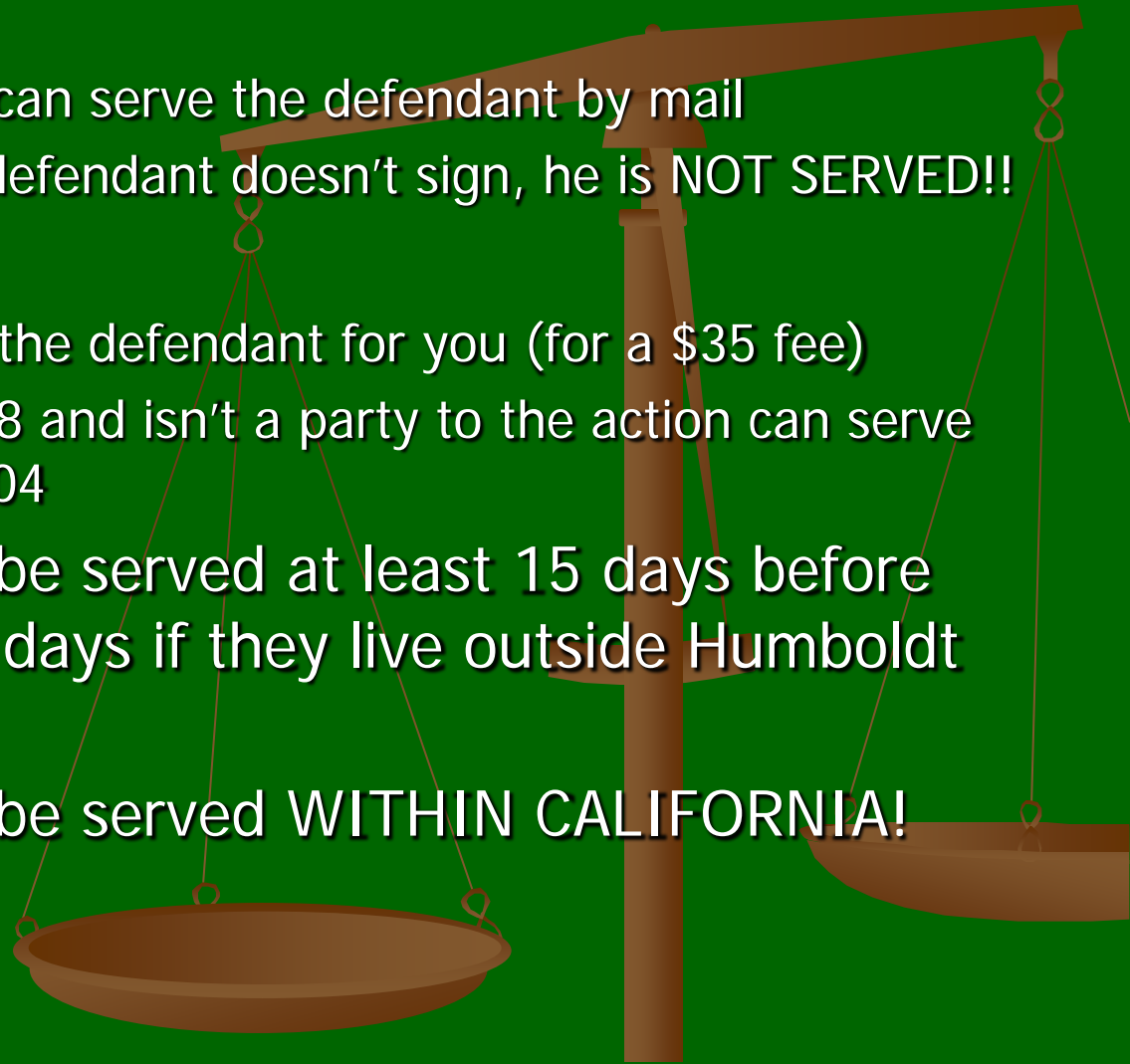
WHERE DO I FILE?

- You must file your small claims case at the civil filing window located at the I Street entrance of the courthouse (at 421 I Street – the old library entrance).
- Filing hours are between 9AM and 2PM
- Be sure to file a copy for yourself and one for each defendant.



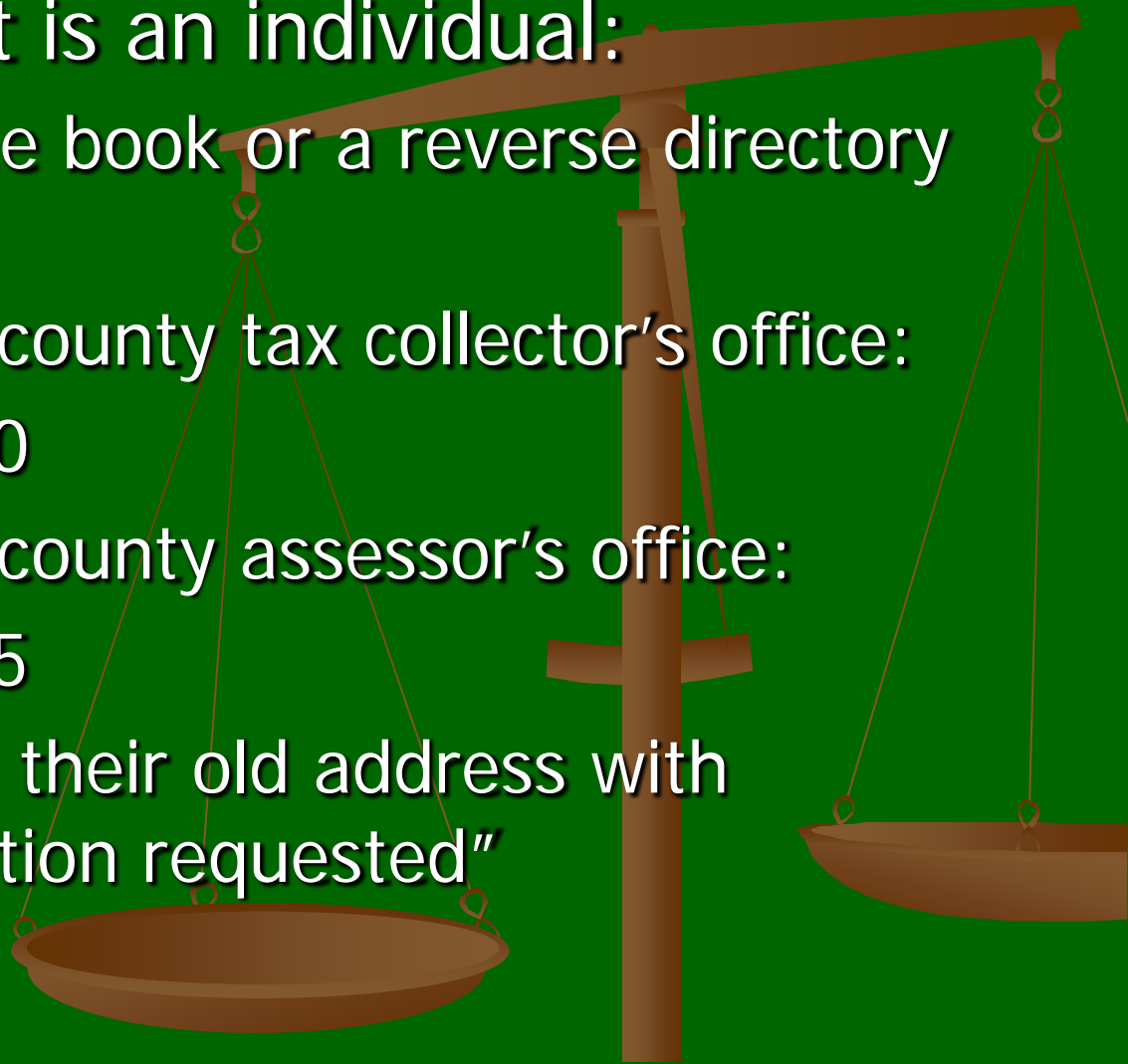
HOW DO I SERVE THE DEFENDANT?

- By mail:
 - ONLY the court clerk can serve the defendant by mail
 - BE CAREFUL!! If the defendant doesn't sign, he is NOT SERVED!!
- Personally:
 - The sheriff can serve the defendant for you (for a \$35 fee)
 - Anyone who is over 18 and isn't a party to the action can serve the defendant – SC-104
- The defendant must be served at least 15 days before the hearing date (20 days if they live outside Humboldt County)
- The defendant must be served **WITHIN CALIFORNIA!**



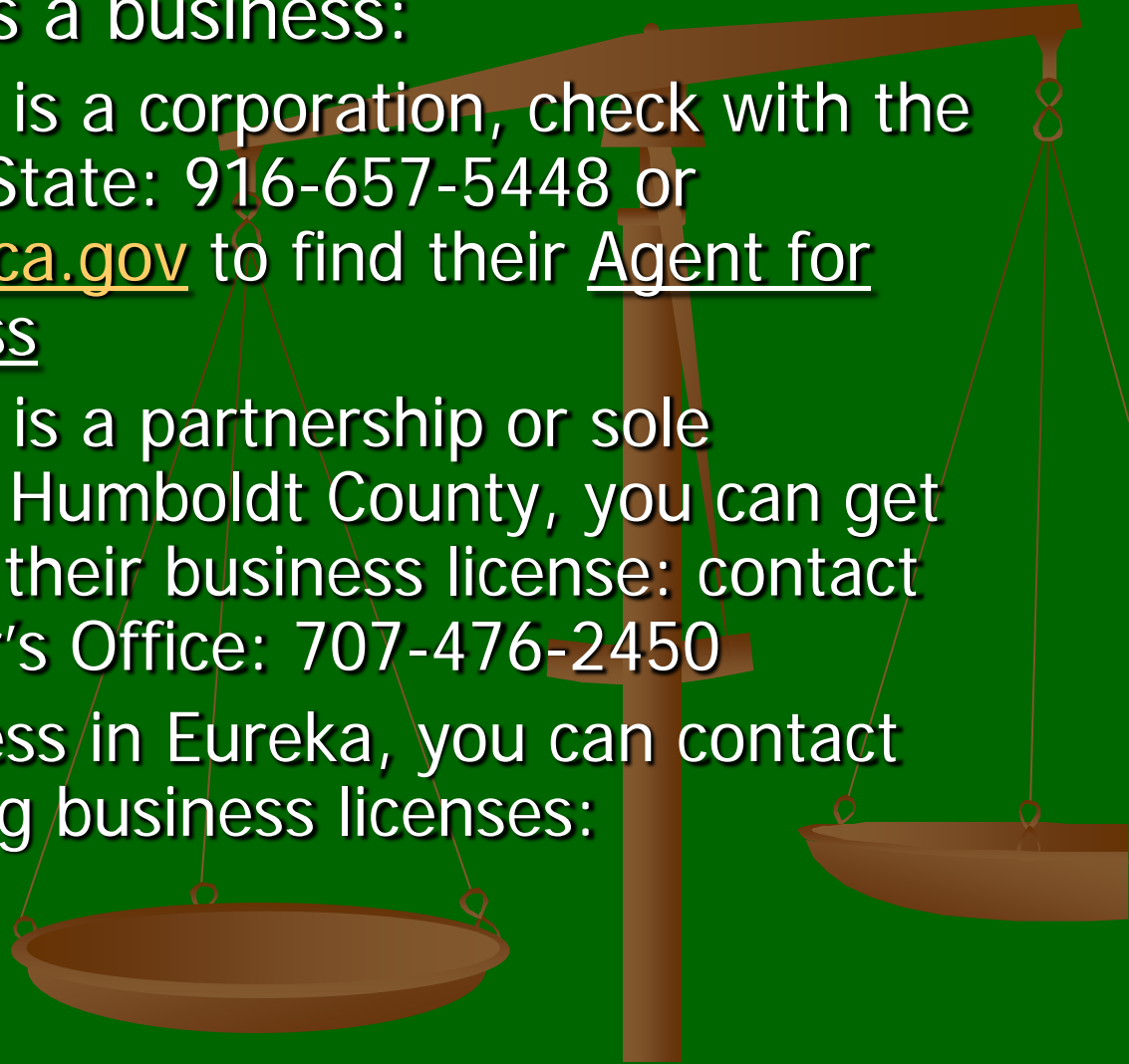
How to Find the Defendant

- If the defendant is an individual:
 - Check the phone book or a reverse directory (e.g. 411.com)
 - Check with the county tax collector's office:
 - 707-476-2450
 - Check with the county assessor's office:
 - 866-240-0485
 - Send a letter to their old address with "address correction requested"



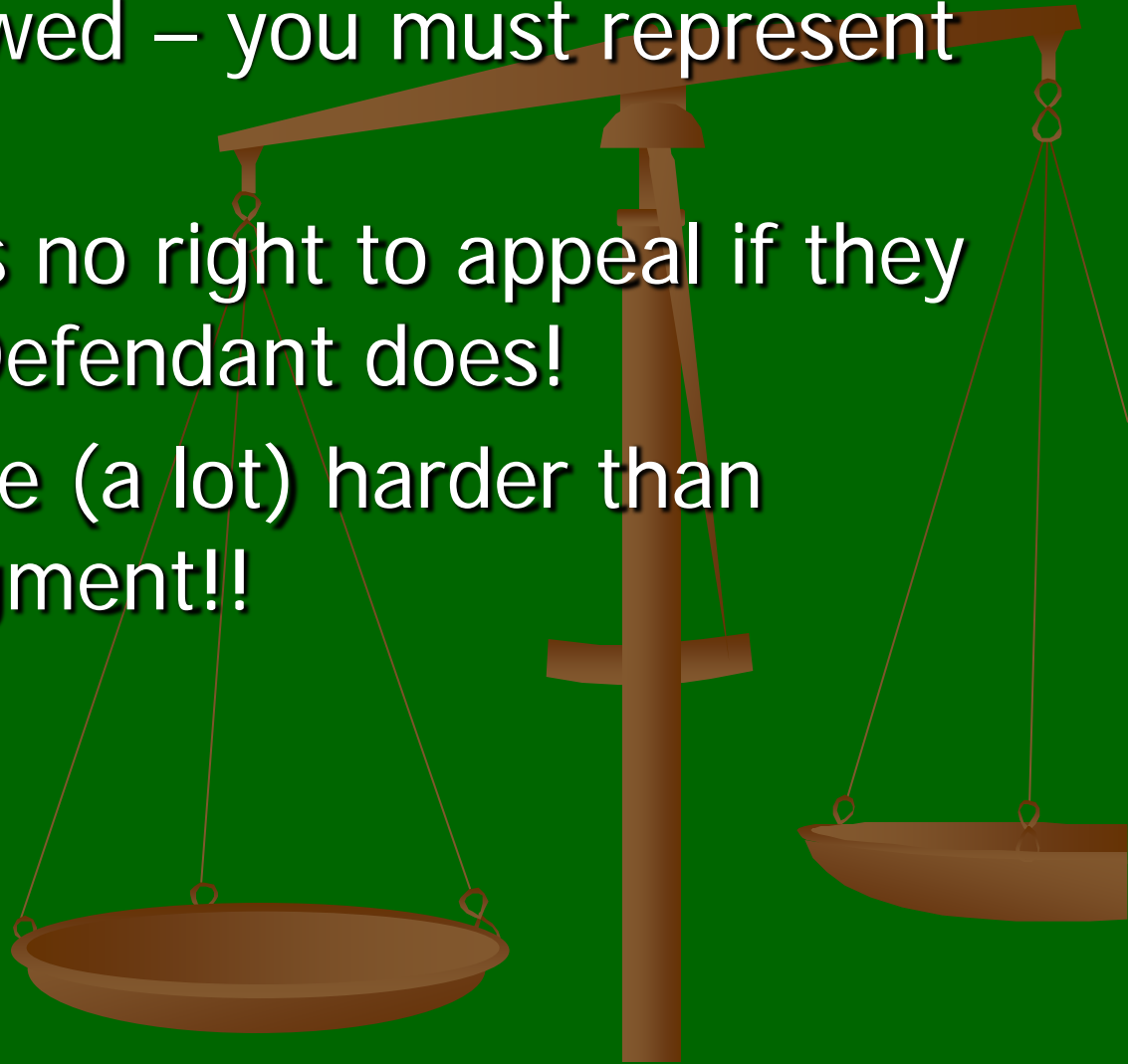
HOW DO I FIND THE DEFENDANT, cont.

- If the Defendant is a business:
 - If the Defendant is a corporation, check with the CA Secretary of State: 916-657-5448 or www.kepler.sos.ca.gov to find their Agent for Service of Process
 - If the Defendant is a partnership or sole proprietorship in Humboldt County, you can get an address from their business license: contact the Tax Collector's Office: 707-476-2450
 - If they do business in Eureka, you can contact the City regarding business licenses:
 - 707-441-4120



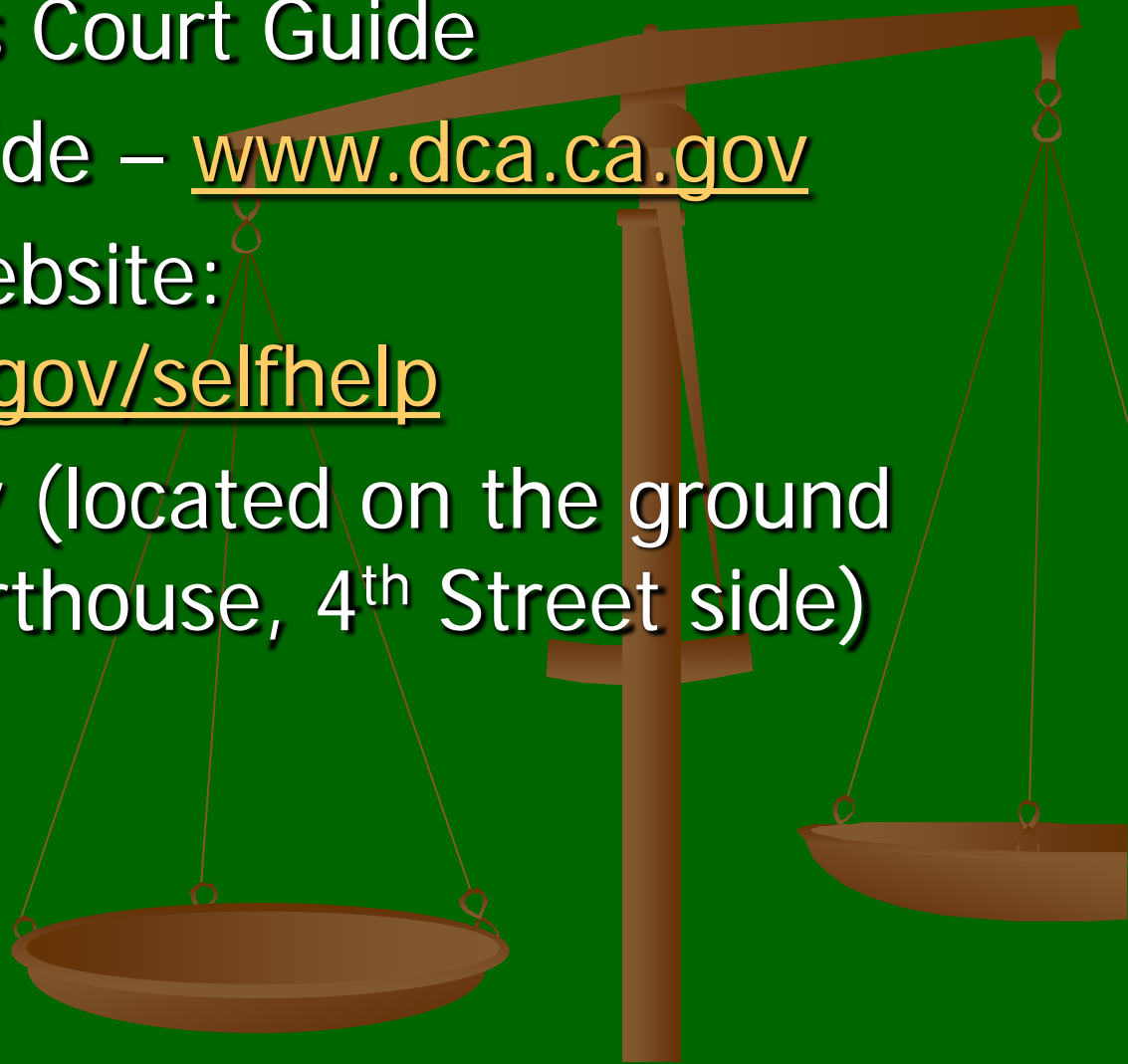
OTHER THINGS TO CONSIDER

- No lawyers allowed – you must represent yourself!
- The Plaintiff has no right to appeal if they lose – but the Defendant does!
- Collection can be (a lot) harder than getting the judgment!!



ADDITIONAL RESOURCES

- CA Small Claims Court Guide
- CA Tenants' Guide – www.dca.ca.gov
- CA Self-Help Website:
www.courts.ca.gov/selfhelp
- The Law Library (located on the ground floor of the courthouse, 4th Street side)



CONTACT INFO

- Call if you have further questions, you may contact the Self Help Center directly at:

- (707) 269-1223

Tuesdays from 10am – 12 noon

