



Federal *Pro Se* Clinic

CENTRAL DISTRICT OF CALIFORNIA: WESTERN DIVISION

▣ Preparing a Federal Case ▣

If you are reading this, you are probably proceeding on your own in court without the help of an attorney. This is often called handling a case *pro se*, a Latin phrase meaning “for oneself.” Starting legal action on your own is not impossible, but it is a complicated process that can be time consuming and costly. That is why it is important for you to think about whether or not you have a valid lawsuit *before* you sue someone. This guide will walk you through the necessary elements of a lawsuit so that you can decide whether or not you should file one.

Understanding the Basics

To start a lawsuit, you will first have to explain your dispute to the court in writing. Formal written statements to the court in civil cases are called **pleadings**. There are many different kinds of pleadings, but the one that usually starts a legal action in court is called a **complaint**. Filing a complaint in the correct court is the first formal procedure for starting a lawsuit.

The main purpose of a complaint is to let the necessary people know that you are beginning a lawsuit. In other words, you are officially giving notice of your legal action to both the court and the party you are suing.

Before you file a complaint, however, you should consider the following questions:

- 1) Do you have a legal claim?
- 2) Are you bringing your lawsuit on time?
- 3) Does your case belong in federal court?
- 4) Do federal courts in California have authority over the parties you are suing?
- 5) Are you suing in the right location?
- 6) Are any of the parties you want to sue immune from lawsuits?

You should think about these questions *before* you start writing your complaint. This guide will walk you through these questions in a step-by-step process. Once you have decided that you have a federal case and that you are filing your complaint in the right place, your next task is to actually write your complaint. For guidance, pick up a copy of “How to Write a Federal Complaint” from the Federal *Pro Se* Clinic.

WORDS TO KNOW

pro se: (Latin) for oneself

pleading: a formal written statement to the court

complaint: the initial pleading that explains your case to the court and to the parties you are suing

plaintiff: the party starting a lawsuit in court

defendant: the party being sued in court

litigants: parties in a lawsuit

pro se litigant: one who is acting as his own lawyer (also called ***pro per litigant***)

In a civil lawsuit, the party who brings a complaint against someone in court is called the **plaintiff**. The party being sued is called the **defendant**. Both the plaintiff and defendant are considered **litigants**, or parties engaged in a lawsuit. If you are representing yourself, you will often hear yourself referred to as a **pro se litigant** or a **pro per litigant**. Try to become comfortable with these and other bold terms in this guide.

LEGAL RESEARCH:

A GREAT PLACE TO START

- LA Law Library -

301 West First Street

Los Angeles, CA 90012

Reference Desk: (213) 785-2535

www.lalawlibrary.org/

Question 1: Do You Have a Legal Claim?

You may have a legal claim (also called a “cause of action”) if you suffered as the result of someone violating a law or a legal obligation. Keep in mind that the court will get involved only in *legal disputes*. That means that even if someone treated you unfairly, if the mistreatment did not violate a law or a legal obligation, then the legal system cannot help you.

You should also think about whether you personally suffered as a result of the actions of the person you want to sue. In general, you can’t bring a lawsuit based on damage suffered by another person. Under most circumstances, *you* have to be the person who was harmed in order to bring a lawsuit.

If you want to do legal research to strengthen your case, visit the LA Law Library and talk to a reference librarian. You can call the library at **(213) 785-2535**. These librarians are not lawyers. They cannot give you legal advice or help you complete your legal paperwork. A law library, however, is a great place to start your legal research and make a list of possible claims to assert in a federal lawsuit.

MORE WORDS TO KNOW

statute of limitations: the deadline for filing a lawsuit for a claim

jurisdiction: the power of a court to make a ruling in your case

subject matter jurisdiction: a court’s power to rule on the kinds of facts and laws involved in a case

federal question jurisdiction: a federal court’s power to resolve disputes involving a federal law; sources of law can include the Constitution, laws, or treaties of the United States

diversity jurisdiction: a federal court’s power to resolve disputes involving more than \$75,000 where all plaintiffs are from different states than all defendants

Question 2: Are You Bringing Your Lawsuit on Time?

There is a time limit for filing any kind of lawsuit. The law imposing that time limit is called the **statute of limitations**. If you file a lawsuit after the legal deadline, the court will rule that the statute of limitations has passed—that is, your right to sue has expired, and the case will be dismissed, even if you otherwise would have had a valid claim.

Every claim has a statute of limitations, and in federal court, figuring out the statute of limitations can be quite challenging. Once you have made a list of the claims you wish to assert in federal court, you should also research the statute of limitations associated with

those claims. Check the law libraries for information on statutes of limitations or consult with an attorney who is familiar with that area of law.

Question 3: Does Your Case Belong in Federal Court? (Subject Matter Jurisdiction)

After you have researched your legal claims and determined that you are bringing the lawsuit on time, you must think about whether you can file your case in *federal* court. In the judicial system, there are state courts and there are federal courts. There are some kinds of cases that federal courts are not authorized to hear, and if your case is one of them, *you should not file a complaint in federal court*. To do so would be a waste of your time, because the federal court will dismiss your case.

I AM TOTALLY LOST!

If you are having trouble understanding subject matter jurisdiction, personal jurisdiction, or venue, take a look at the flow charts on pages 7-9.

The term **jurisdiction** refers to the authority a court has to decide a case. When a federal court has authority to hear a case, it has **subject matter jurisdiction**. While state courts have the authority to hear most kinds of claims, federal courts are courts of limited jurisdiction and can only hear certain types of claims. There are two main ways to show that your case belongs in federal court. You can show that there is: 1) **federal question jurisdiction** or 2) **diversity jurisdiction**. Both concepts are explained below.

1) Federal Question Jurisdiction (28 U.S.C. § 1331)

Federal courts have jurisdiction if your case involves a *federal question*—that is, the laws you are trying to enforce come from the Constitution, laws, or treaties of the United States. Are you trying to assert that the defendant violated your rights under federal law? If so, your case may raise a federal question.

2) Diversity Jurisdiction (28 U.S.C. § 1332)

If your case doesn't involve a federal question, you can still establish federal jurisdiction if there is *diversity jurisdiction* in your case. This means a) there is diversity of citizenship (you and the party you are suing are citizens of different states), and b) the amount you are arguing over is greater than \$75,000 (that is, \$75,000.01 or more).

At least one of the parties in a lawsuit must be a citizen or permanent resident of the United States to bring a case in federal court under diversity jurisdiction. If no party is a citizen or permanent resident of the United States, there cannot be a claim in federal court based on diversity jurisdiction.

If there is federal question jurisdiction or diversity jurisdiction in your case, you may also include relevant claims in your complaint that would not independently belong in federal court. A federal court's authority to hear related non-federal claims is called **supplemental jurisdiction** (28 U.S.C. §1367). The federal court, however, may choose not to take supplemental jurisdiction over your non-federal claims.

Eventually, you will have to explain in your complaint why your case falls under federal jurisdiction. Federal subject matter jurisdiction can be a confusing concept, so refer to the flow chart on

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page 7 to get a better understanding. Although the concept of jurisdiction can be hard to grasp, the statement of jurisdiction itself is usually very simple. Instructions on how to write a statement of jurisdiction are available in “How to Write a Complaint,” a guide available at the Federal *Pro Se* Clinic.

Question 4: Do Federal Courts in California Have Authority over the Defendants? (Personal Jurisdiction)

Once you have determined that your case belongs in federal court, you must think about whether a court in California has power over the parties you are suing. A court’s power over a person or any other entity is called **personal jurisdiction**. If a court does not have personal jurisdiction over the defendant, it cannot make the defendant do anything. It cannot even make the defendant appear in court or answer your complaint!

For a federal court in California to have personal jurisdiction over a defendant, usually one of the following is true:

- 1) The defendant is a citizen or resident of California;
- 2) The plaintiff is suing the defendant for something the defendant did in California;
- 3) The defendant has consented to being sued in California;
- 4) The defendant is present in California at the time he is formally and personally served with the lawsuit; *or*
- 5) The defendant has acted in a way that put him at risk of being sued in California.

If you answered “Yes” to *any* of these five questions, you will probably be able to show that federal courts in California have personal jurisdiction over the defendant. The rules for personal jurisdiction vary depending on the identity of the defendant, so be sure to research personal jurisdiction before filing your lawsuit.

For a better understanding of personal jurisdiction, please see the flow chart on page 8.

Question 5: Venue—Are You Suing in the Right Location? (28 U.S.C. § 1391)

Even if a federal court has both subject matter jurisdiction and personal jurisdiction over your case, you still have to think about whether your case belongs in *this* court: a federal court sitting in the Central District of California. This district includes the following counties: **Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura**. If you are in the correct federal court, that means you are in the right **venue** to file your case. The Central District of California is generally a proper venue for a lawsuit if:

MORE WORDS TO KNOW

supplemental jurisdiction: the authority of a federal court that already has federal subject matter jurisdiction to hear related additional, non-federal claims that would otherwise not belong in federal court

personal jurisdiction: a court’s power over a person or entity

- 1) All defendants reside in California AND at least one of the defendants lives in this district; A substantial part of the events you are suing about happened in this district; A substantial part of the property that you are suing about is located in this district; or
- 2) You are suing the U.S. government or a federal agency or official in their official capacities and you live in this district.

To learn more about venue, see 28 U.S.C. §1391. The chart on page 9 will help you understand whether or not the Central District of California is the correct venue for your lawsuit.

Venue is important to think about because if you file your case in the wrong court, the court may automatically transfer your case to the correct venue. In other words, if you file a case in Los Angeles and it turns out that the correct court is in San Francisco, the court will transfer your case, and you will have to go to San Francisco to pursue your claim.

Please see the flow charts on pages 7-9 to better your understanding of subject matter jurisdiction, personal jurisdiction, and venue.

Question 6: Are Any of the Parties You Want to Sue Immune from Lawsuits?

Certain people, organizations, and entities that perform official functions may be wholly or partially **immune** from lawsuits. Judges, prosecutors, and federal and state governments, for example, are generally immune from many civil claims brought in federal court. If any of the parties you want to sue performs an official function, be sure to research whether they are immune from suit before you start a case.

MORE WORDS TO KNOW

venue: the correct location of a court that may hear your case

immunity: legal protection from prosecution or lawsuits

The Next Step

To review, the major questions you should consider before filing a lawsuit are:

- 1) **Do you have a legal claim?**
- 2) **Are you bringing your lawsuit on time?**
- 3) **Does your case belong in federal court?**
- 4) **Do courts in California have power over the parties you are suing?**
- 5) **Are you suing in the right court?**
- 6) **Are any of the parties you want to sue immune from lawsuits?**

Have you thought about all of these questions before deciding to start a federal case? If so, you are ready to begin drafting a complaint. There are many rules that dictate how to organize, format, and write a complaint. For a comprehensive explanation of these rules, pick up a copy of "How to Write a Complaint," available in the Federal *Pro Se* Clinic.

If you need further assistance in this process, speak to an attorney at the Federal *Pro Se* Clinic, located on the Main Street Floor, Room G-19, of the U.S. Courthouse in downtown Los Angeles.

CHECKLIST

- 1. Do I have a legal claim?**
 - The defendant violated the following laws or legal obligations:

 - As a result of the defendant’s illegal activity, I suffered harm in the following way:

- 2. Am I suing on time? (statute of limitations)**
 - My lawsuit must be filed within the following period of time: _____
 - I have until the following date to submit my complaint: _____

- 3. Does my case belong in federal court? (See flow chart on page 7)**
 - My case raises a federal question
 - OR**
 - My case falls under diversity jurisdiction

- 4. Do federal courts in California have authority over the defendant? (See flow chart on page 8)**

- 5. Am I suing in the right location? (See flow chart on page 9)**

- 6. Are any of the parties I want to sue immune from lawsuits?**

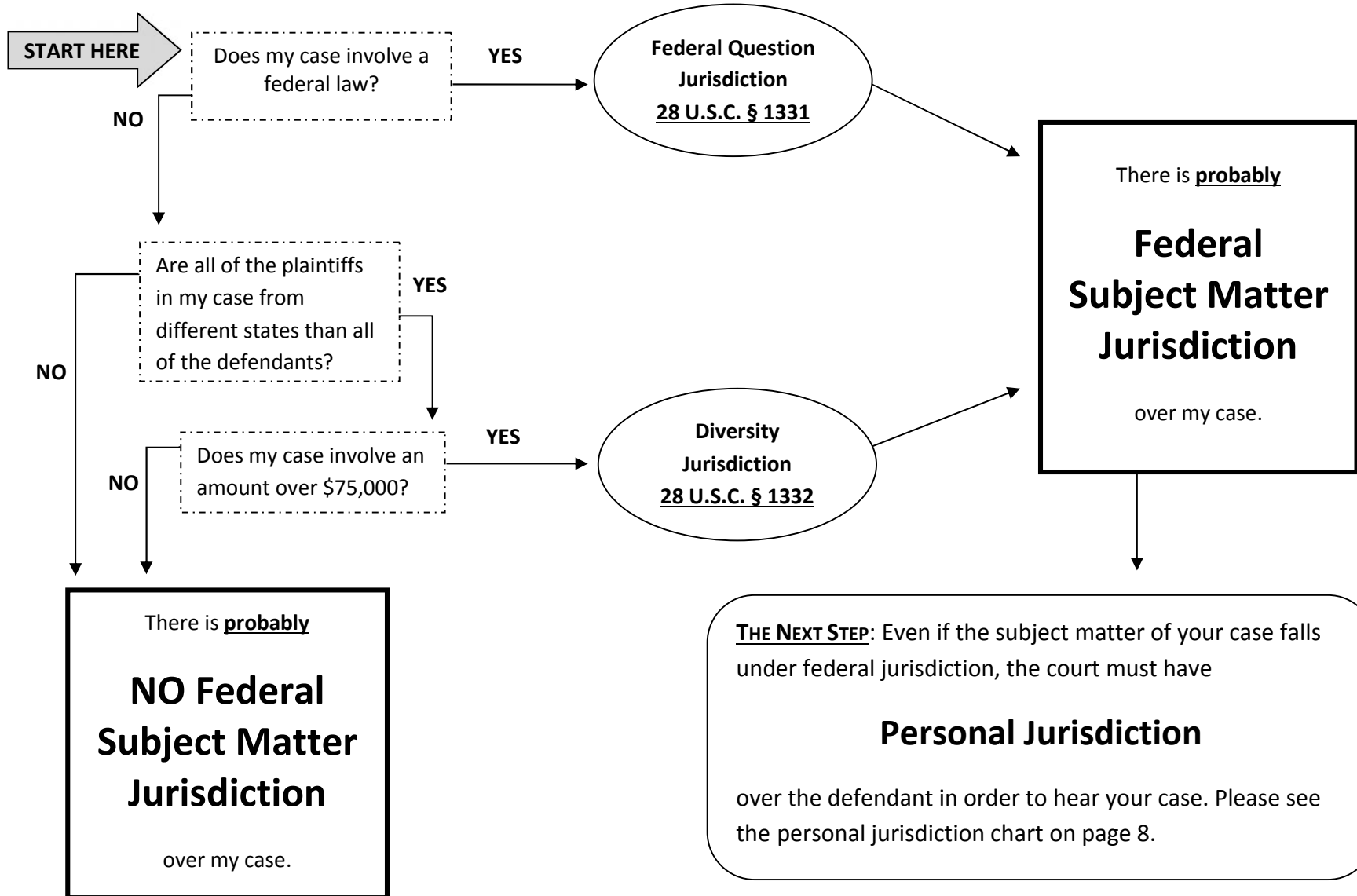
Useful Links

To bring a case in federal court, you must be familiar with the Federal Rules of Civil Procedure and the Local Rules of the court in which you are suing. You may find a copy of the Federal Rules of Civil Procedure and the Local Rules of the Central District of California at the following websites:

Federal Rules of Civil Procedure:
<http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure>

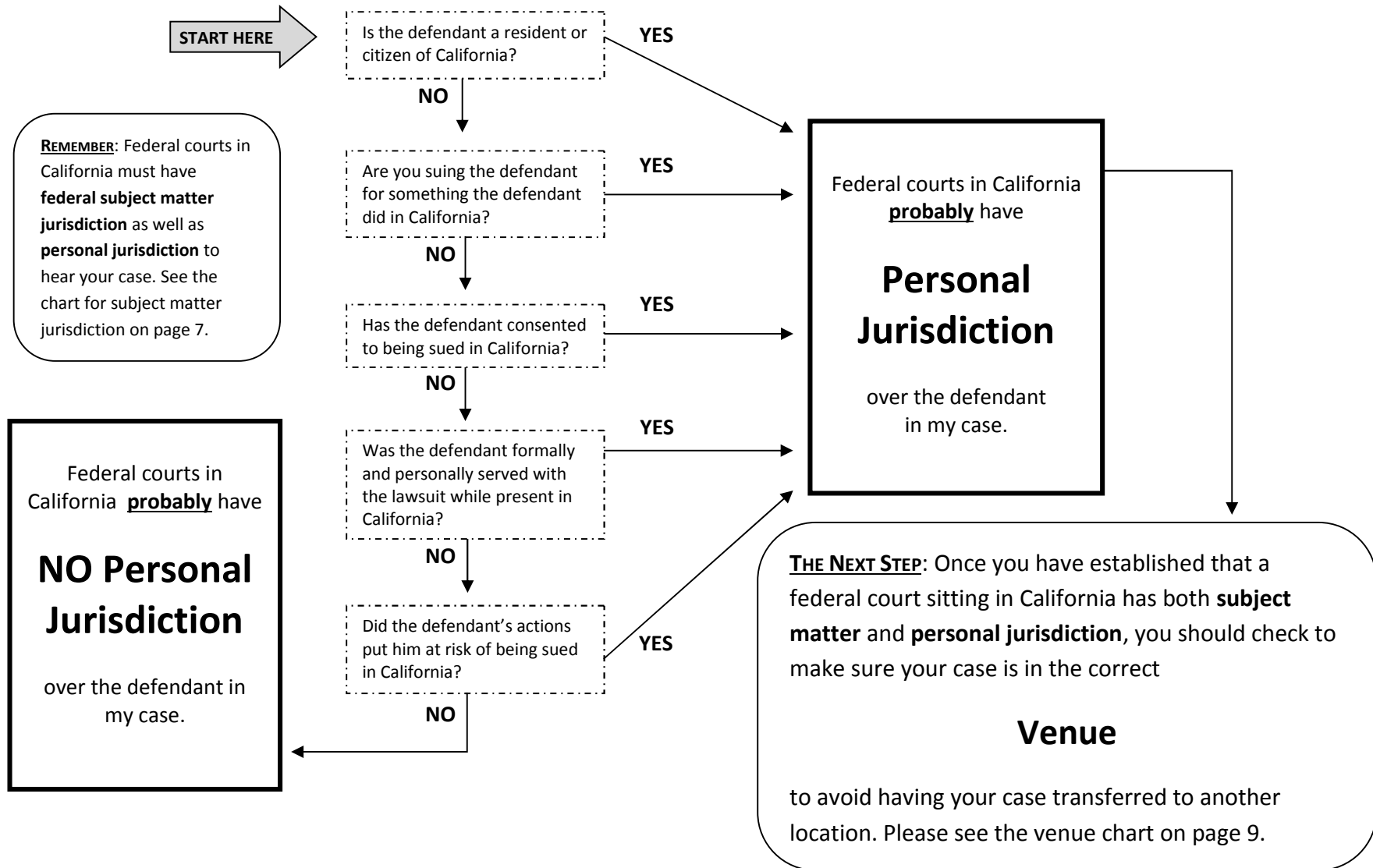
Local Rules of the Central District of California:
<http://www.cacd.uscourts.gov/court-procedures/Local-Rules>

Federal Subject Matter Jurisdiction: Does My Case Belong in Federal Court?



This chart is designed to give you a basic idea of how federal subject matter jurisdiction works. Subject matter jurisdiction can be a very complicated issue. Please carefully research subject matter jurisdiction rules, visit the Federal *Pro Se* Clinic, or, if possible, consult an attorney.

Personal Jurisdiction: Do Federal Courts in California Have Authority Over the Defendant(s)?

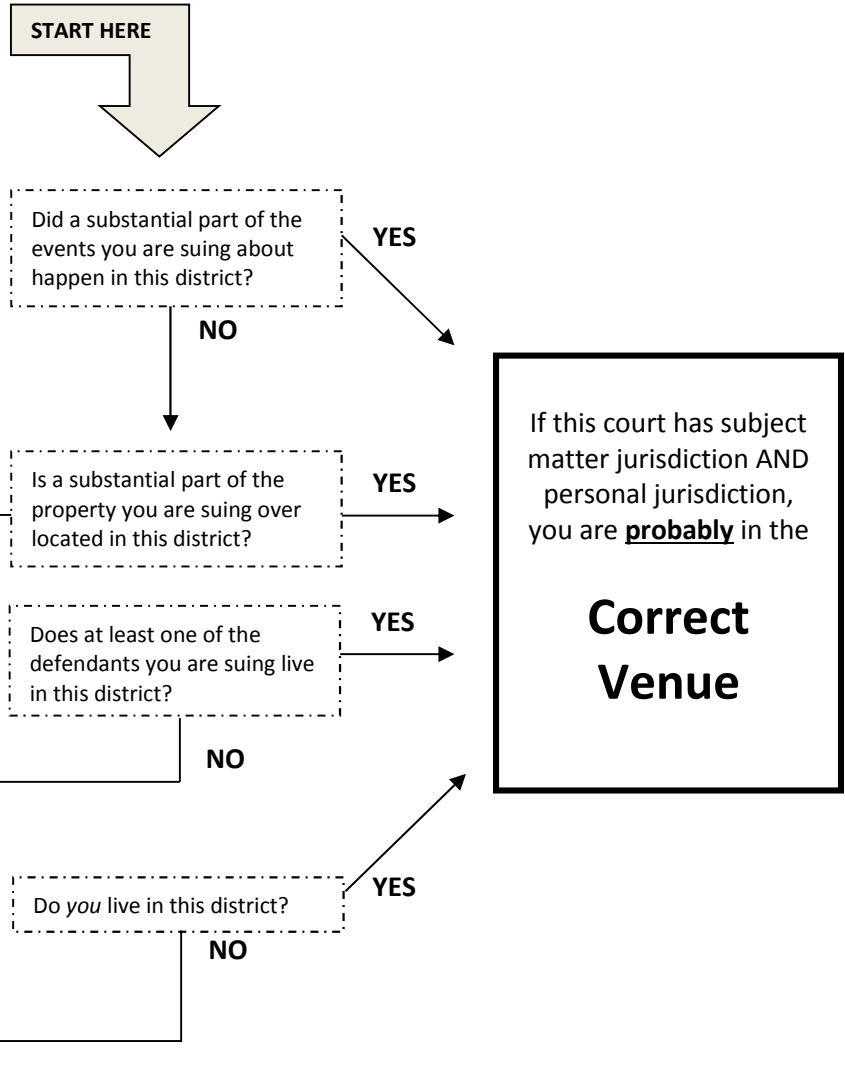


Venue: Am I Suing in the Right Location?

COUNTIES IN THE CENTRAL DISTRICT OF CALIFORNIA



- Los Angeles County
- Orange County
- Riverside County
- San Bernardino County
- San Luis Obispo County
- Santa Barbara County
- Ventura County



You are **probably** in the

Wrong Venue

If this court has subject matter jurisdiction AND personal jurisdiction, you are **probably** in the

Correct Venue

Lawyer Referral Services



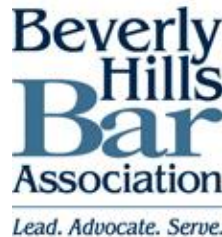
Los Angeles County Bar Association (LACBA) Lawyer Referral and Information Service

www.smartlaw.org

(213) 243-1525

The Los Angeles County Bar Association LAWYER REFERRAL AND INFORMATION SERVICE, the largest and oldest such service in the United States, has hundreds of pre-screened, qualified and insured lawyers in the Los Angeles area that can help you with your legal issues. The LRIS is a nonprofit public service of LACBA.

There is no initial fee for this service. Participating attorneys provide up to one-half hour of free consultation. (For middle income consumers who meet financial eligibility guidelines, special rates are available in limited areas of law. *Attorneys may require you to complete a form and attach income verification to confirm eligibility.*)



Beverly Hills Bar Association (BHBA) Lawyer Referral and Information Service

<https://www.bhba.org/index.php/lawyer-referral-and-information-service>

310.601.2442

The Beverly Hills Bar Association Lawyer Referral & Information Service was formed in 1976 as a service to the public to provide referrals to competent and ethical legal representation. The service operates as a private non-profit corporation. Our major concern is to provide individuals and businesses with an experienced attorney ready, willing and able to provide quality legal services at a fair price. Our commitment to quality service is demonstrated by our Certification as a lawyer referral service by the State Bar of California which certifies only those referral services that meet or exceed the standards approved by the Supreme Court of California

This service has an initial fee of \$35. Keep in mind, you are under no obligation to retain the attorney to whom you are referred. If you do choose to hire the lawyer for additional legal services, future fees should be decided upon at the first consultation. Be sure you understand how the lawyer's fees will be determined and when they will need to be paid. A written agreement that states how the lawyer will charge for services is required by law in most cases and could help prevent further problems.

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Open on Mondays, Wednesdays, and Fridays, 9:30 a.m. to 12:00 noon, 2:00 p.m. to 4:00 p.m. First come, first served.

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GLOSSARY OF TERMS

complaint: the initial pleading that explains your case

defendant: the party being sued in court

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immunity: legal protection from prosecution or lawsuits

jurisdiction: the court's authority to make a ruling in a case (for a court to have jurisdiction, there must be both subject matter jurisdiction and personal jurisdiction)

litigants: parties in a lawsuit

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plaintiff: the party starting a lawsuit in court

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venue: the correct location of a court that may hear your case

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