

STOP SMART METERS

If a utility company installed a Smart Meter on your property or residence, you can do something about it.

Who Can Take Action?

1. Owners of the property
2. People who reside in the property

A Small Claim Makes A Big Difference

Did you ever wonder why the bigger something gets the harder it is to deal with? Well, even if you never thought about it before, it's really true. That's why Small Claims Court lawsuits brought by tens of thousands of California utility users may help to stop Smart Meters in California.

Oh, sure, the utility companies have the money to fight thousands of Small Claims Court cases, but the logistics of doing it would be a nightmare for them. They will have to respond to each and every Small Claims Court case, and when a case comes to trial in Small Claims Court they will have to send an agent or employee to court to oppose the case. Just to organize all those responses and people will be a huge logistical burden, even for a big utility company. What's more, it would give the utility company a public black eye, and they are wary of that kind of publicity.

Do not file a Small Claims Court case unless you sincerely believe that you have a legal right to do so. But understand that, whether or not you actually win a Small Claims Court action, if thousands of citizens file such cases they may achieve a political victory over Smart Meters in California, because the utility companies (and even the court administrators) will almost certainly have to turn to Sacramento for assistance in order to deal with litigation of such magnitude.

That will put the state legislators and state regulatory agencies, like the California Public Utilities Commission, squarely in the political bulls-eye, which is exactly where they should be, because the utility companies are trying to justify Smart Meters based on laws the legislators have passed and rules the regulators have enacted. So, if your utility company has installed a Smart Meter on your property or on your residence (whether or not you own the property), and you have a good faith belief that you are entitled to file a Small Claims Court action on that account, here is what you can do:

File A Small Claims Court Case

You can file a Small Claims Court action all by yourself, without anyone's help, or you can get help filling out the papers and serving them on the utility company. Lawyers are prohibited from representing parties to a Small Claims Court action, but legal services and even some lawyers can help you get the paper work in shape if you feel you need that kind of assistance.

A. File a Small Claims Action by Yourself

In California, you don't need a lawyer to file a Small Claims court case, and a lawyer cannot represent a party to a Small Claims court lawsuit. If you win the case, the other side can hire a lawyer to appeal to the regular Superior Court and then you can either represent yourself there or hire a lawyer to represent you.

Every one of California's 58 counties has a Court Clerk's office where you can file a Small Claims court action. Here is where you can get the address and phone number of the Clerk's office in your county: <http://www.courtinfo.ca.gov/courts/find.htm>

To file a claim for \$7,500.00 in damages usually requires that you pay a filing fee of \$75.00 to the clerk of the court. If you are going to file your own Small Claims Court action, here is what you need to know:

Small Claims basic information:

<http://www.courtinfo.ca.gov/selfhelp/smallclaims/>

Download the forms you need: http://www.cc-courts.org/data/n_0003/resources/live/SmallClaimsSC-01FullPacket2010.pdf

B. Get Help Filing Your Small Claims Action

For a nominal fee, you can get help filing your Small Claims court case. There are online services, and services you can contact by telephone. Just Google "California small claims court services" and you'll find help. Here are just a few of the many places that provide assistance:

Instant Process Service:

http://www.instantprocessservice.com/small_claims.html

My Small Claim:

<http://www.mysmallclaim.com/?gclid=CJGPjN-t-6UCFRtVgwodmmhtcQ>

Small Claims Service:

<http://www.smallclaimservice.com/?gclid=CJXRxNWt-6UCFQoLbAodKlizqA>

Turbo Court:

<http://turbocourt.com/go.jsp?act=actShowAppInfo&appcode=elf-sc&tmstp=1264288.0&fld=fldHomeAppName&srcde=dteAppsList&source=scrHome&form=frmAppsList&ind=1&screenCode=HOME>

C. Ideas for a Small Claims Court Case

The information below is not intended as legal advice, and may not be used for that purpose. It is solely for the purpose of stimulating discussion and sharing ideas about the possible kinds of Small Claims Court claims people might make in relation to the installation of Smart Meters on their property or their residence.

When you file a lawsuit, you always make a claim. In the law, a claim is called a “cause of action.” Below are some possible causes of action in relation to Smart Meters. Some of them may be appropriate for property owners. Some may be appropriate for people who reside in the property but don’t own it. For anyone who owns the property and resides in it as well, all of the causes of action below may be appropriate

NOTE: Wherever the words “the utility company” appear below, they refer to a person’s actual utility company. It is the actual name of the utility company that must be used in a Small Claims Court complaint.

Possible Causes of Action for Property Owners
(Including Multi-Unit Property Owners)

Cause of Action (Burdening Utility Easement): The utility company is burdening the utility easement it has on my property by installing a Smart Meter that (a) emits dangerous electromagnetic waves that cause personal injury, (b) invade the privacy of residents by data mining and data basing information about their private behavior, (c) utilizes technology that is not proven to be reliable in relation to utility usage and the lawful charges that can be assessed for such usage, (d) subjects occupants of the property to an unconstitutional degree of control of their life activities by computer algorithms and faceless bureaucrats who have no knowledge of their personal needs and desires, without their knowledge and informed consent.

Cause of Action (Trespass): The utility company is trespassing on my property by installing a Smart Meter that (a) emits dangerous electromagnetic waves that cause personal injury, (b) invade the privacy of residents by data mining and data basing information about their private behavior, (c) utilizes technology that is not proven to be reliable in relation to utility usage and the lawful charges that can be assessed for such usage, (d) subjects occupants of the property to an unconstitutional degree of control of their life activities by computer algorithms and faceless bureaucrats who have no knowledge of their personal needs and desires, without their knowledge and informed consent.

Cause of Action (Diminution of Property Value): The utility company is diminishing the value of my property by installing a Smart Meter that puts my property at a competitive disadvantage in the real estate market due to the costs and risks associated with Smart Meter technology, including the fact that a Smart Meter: (a) emits dangerous electromagnetic waves that cause personal injury, (b) invade the privacy of residents by data mining and data basing information about their private behavior, (c) utilizes technology that is not proven to be reliable in relation to utility usage and the lawful charges that can be assessed for such usage, (d) subjects occupants of the property to an unconstitutional degree of control of their life activities by computer algorithms and faceless bureaucrats who have no knowledge of their personal needs and desires, without their knowledge and informed consent.

Possible Causes of Action for Residents and Property Owners (Including Multi-Unit Property Owners)

Cause of Action (Invasion of Privacy): The utility company is invading the privacy of the property residents in violation of the state and federal Constitutions, by installing a Smart Meter that data mines and data bases private life style choices and habits through the electromagnetic analysis of utility usage, and makes that data available to unknown persons without the knowledge and informed consent of the occupants of the property. Further, the utility company stores that personal data in ways that render it susceptible to hackers, home invaders and other criminals who pose a serious risk of further injury and loss to the residents.

Cause of Action (Conversion): The utility company is committing civil theft by installing and maintaining a Smart Meter that data mines and data bases private life style choices and habits through the electromagnetic analysis of utility usage, and makes that data available to unknown persons without the knowledge and informed consent of the occupants of the property. Further, the utility company stores that personal data in ways that render it susceptible to hackers, home invaders and other criminals who pose a serious risk of further injury and loss to the residents.

Cause of Action (Violation of Constitutional Rights): The utility company purports to be acting pursuant to state and federal laws and administrative regulations in installing and maintaining a Smart Meter on the property. However, such laws and regulations are unconstitutional on their face or as applied in this case, in that they (a) violate the Ninth and Tenth Amendments to the Constitution of the United States, by usurping powers and disparaging rights possessed by the states or by the people, or by both; (b) violate the Fourteenth Amendment to the Constitution of the United States, by depriving those who occupy the property the right to life, liberty and property without due process of law, and in violation of the right to equal treatment under the law with every other citizen of the United States, including those citizens who, by state law, are not made subject to Smart Meters; (c) violate Article I, Section 1 of the California Constitution, in that they deprive the occupants of the right to enjoy and defend their life and liberty, and deprive them of their right to acquire, possess, and protect their property, safety, happiness and privacy.

Cause of Action (Personal Injury): The utility company is causing me personal injury because it installed a Smart Meter that causes electromagnetic waves that make me sick.

[If there are facts to support the above claim, it can be inserted in the complaint]

Request for Relief

At the end of your claims, you must tell the Court what you want it to do (this is your request for relief). In California, when a Small Claims Court action is filed seeking money damages, the Small Claims Court has jurisdiction (legal authority) to award money damages up to a maximum of \$7,500.00, and to issue a court order in place of, or in addition to, an award of money damages. The authority for a Small Claims Court to issue a court order is found in California Code of Civil Procedure §§ 116.210-116.221.

So, it may be appropriate not only to ask the Small Claims Court for the maximum amount of money damages allowed by law, but also for a court order directed to the utility company ordering it to remove the Smart Meter from the property you own or in which you reside, and to reinstall the analog meter that it previously removed. One would expect a utility company to fight such an order by the Small Claims Court by appealing it to the regular Superior Court. But the utility company may have no better luck there.

For owners of the property, the theory of getting a court-ordered removal is that the utility easement constitutes a contract between the owner and the utility company, a contract that by its terms and by law defines the rights (and limitations on the rights) of the parties in relation to how the easement and the property are to be used. The owner is asking the court for “specific performance” of the easement in order to eliminate the illegitimate use (burdening, trespass, etc.) represented by the utility company installing and maintaining a Smart Meter.

For residents who are not owners, the theory of getting a court-ordered removal is that the customer service contract the resident has with the utility company must by law be performed in “good faith” (this is implied as a matter of law in every contract in the State of California), and the installation of any Smart Meter that makes the resident ill, invades the resident’s privacy, etc., represents a bad faith breach of the customer service contract, entitling the resident to “specific performance” of the terms of contract (including the implied-in-law terms) in the form of a court-ordered removal of the Smart Meter.

A Note About Serving Papers on the Utility Company

Small-claims lawsuits against corporations must be "served" (mailed or delivered in person) on the corporation's registered agent for receiving service of legal “process” (summons and complaint). You can find out the name of the utility company’s agent for service of process at this website (control-click the link to go to the web page or type <http://kepler.sos.ca.gov/cbs.aspx> into your browser’s web address field). If you look up the official address for a corporation at the California Secretary of State website, this is the kind of thing you will see:

Entity Name:	PACIFIC GAS AND ELECTRIC COMPANY
Entity Number:	C0044131
Date Filed:	10/10/1905
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	77 BEALE ST 32ND FL
Entity City, State, Zip:	SAN FRANCISCO CA 94105
Agent for Service of Process:	LINDA Y H CHENG
Agent Address:	ONE MARKET, SPEAR TOWER STE 2400
Agent City, State, Zip:	SAN FRANCISCO CA 94105

Write the name of the corporate defendant into the Small Claims complaint exactly the way the name is officially registered with the State of California, and mail the complaint and summons to the corporation in care of the registered agent, requesting that the post office provide you with a return receipt that shows that the named agent signed for the mailing. A refusal to accept service of process could be a violation of law, and should be reported to the office of the California Secretary of State.

When you are suing a corporation, you may file the lawsuit in the county where the corporation is officially located (according to the official corporate address registered with the State of California), or in the county where the utility contract was broken (typically the county where the easement rights exist), or in the county in which you experienced harm to yourself or your property (typically the county where the property is located, which is also usually the country where the easement rights exist).