



SAN MATEO COUNTY LAW LIBRARY

RESEARCH GUIDE #16

ANSWER CIVIL COMPLAINT FOR BREACH OF CONTRACT

(\$25,000 OR LESS)

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

KNOW YOUR OPTIONS?

A lawsuit for money based on a contract, loan or agreement is a civil action. The one who is bringing the lawsuit is called the plaintiff. The one who is being sued is called the defendant. If you are sued, you have several choices:

1. You can defend yourself by filing an Answer to the lawsuit in court. Special forms are used, which you can get from the court. You must file an Answer within 30 days of the date you are personally served with the Summons and Complaint.

2. You can choose to do nothing and allow the plaintiff to obtain a default judgment against you. A default means that you failed to answer the complaint in the time required by law. If a default is entered against you, you **CANNOT** defend yourself in the case. **WARNING:** a judgment against you could show on your credit report and result in a wage garnishment or other means of collection.

3. You can try to reach an agreement with the plaintiff. The San Mateo County Superior Court offers Mediation services to assist the parties to resolve their issues with the help of a neutral third party. Mediation is a voluntary process in which a neutral third party, who is a trained mediator, meets with the parties to assist them in settling their dispute. For further information you may call The Multi-Option ADR Project 400 County Center, Redwood City, CA 94063 at (650) 261-5075 or (650) 261-5076.

IMPORTANT: If you wish to explore this option it is advisable that you request an extension of

time to answer the complaint confirmed in writing by the Plaintiff or attorney for the Plaintiff or file an Answer to prevent a default being taken against you.

WHAT TO DO:

NOTE: These instructions are for the most common cases, if you have a unique situation, we advise you to talk with an attorney.

STEP 1: Review the Summons

One of the papers you should have received is called a Summons. If you choose to respond to the summons and complaint, you must do so within 30 days of the date you were personally served. The 30 days includes Saturdays and Sundays. Do not count the day you were given the lawsuit, but begin counting with the next day. If the 30th day falls on a Saturday or Sunday, you can file the Answer on the following Monday.

To respond you must file a formal paper with the court. The paper is called the Answer. You cannot call the Clerk's office to get extra time to file an answer in a civil case. Only the plaintiff or the plaintiff's attorney can give you extra time (called an extension). If you are given an extension, you should confirm it in writing in a letter to the plaintiff or the plaintiff's attorney and keep a copy of the confirming letter.

STEP 2: Review Your Insurance Policies

It is possible that the lawsuit is covered by your auto, renter's, homeowner's or other type of insurance. Take out your policy and review it. Your insurance company may cover your defense in some types of cases.

If your insurance company will cover your defense, make sure to deliver a copy of the Summons and Complaint to the insurance company immediately. Get a receipt from your insurance agent for delivering the lawsuit paperwork.

STEP 3: Complete the Required Forms

You can get the Answer forms online. [See the samples at the end of this guide.](#) There is a filing fee due at the time of filing the Answer.

The Judicial Council forms used in this procedure are:

1. [Answer-Contract \(PLD-C-010\)](#)

2. [Proof of Service \(POS-030\)](#)
3. [Attachment 4 – Affirmative Defenses](#)

Step 4: Serving the answer

Before you file your answer with the Clerk, a copy must be served on the Plaintiff or Plaintiff's attorney. It can be served by mail but must be done by a person who is not a plaintiff or defendant in this case.

Make two copies of the Answer, any attachments and the Proof of Service by mail. One copy is for the server to mail. Take the original and one copy to the clerk for filing.

STEP 5: File your forms

For the San Mateo County, these are filed at the Hall of Justice located at 400 County Center Redwood City, CA 94063 on the 1st Floor. Fee waivers are available for low-income petitioners.

All forms should be completed in type or printed clearly using blue or black ink. The first part of the form is called the caption box and looks like this:

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) YOUR NAME YOUR STREET ADDRESS YOUR CITY, STATE, AND ZIP CODE YOUR TELEPHONE NUMBER		PLD-C-010 FOR COURT USE ONLY
ATTORNEY FOR (NAME) Write in "IN PRO PER"	Insert name of court, judicial district or branch court, if any, and post office and street address: Superior Court of California, County of San Mateo 400 County Center Redwood City, CA 94063 Southern Branch	
PLAINTIFF:	WRITE IN THE NAME OF THE PLAINTIFF AS SHOWN ON THE SUMMONS AND COMPLAINT	
DEFENDANT:	WRITE IN THE NAMED DEFENDANTS AS SHOWN ON THE SUMMONS AND COMPLAINT	
<input type="checkbox"/> TO COMPLAINT OF <input type="checkbox"/> TO CROSS-COMPLAINT	IF YOU HAVE BEEN SERVED WITH A COMPLAINT, CHECK THE FIRST BOX AND WRITE IN THE NAME OF THE PLAINTIFF. IF YOU HAVE BEEN SERVED WITH A CROSS COMPLAINT, CHECK THE SECOND BOX AND WRITE IN THE NAME OF THE CROSS-COMPLAINANT.	CASE NUMBER WRITE IN THE CASE NUMBER AS SHOWN ON THE SUMMONS

The next section of the form looks like this:

1. This pleading, including attachments and exhibits, is filed in support of the complaint or cross-complaint. 2. DEFENDANT (name): answers the complaint or cross-complaint as follows: 3. Check ONLY ONE of the next two boxes: a. <input type="checkbox"/> Defendant generally denies each statement in the verified complaint or cross-complaint demands more than \$1,000. b. <input type="checkbox"/> Defendant admits that: (1) Defendant claims that: <input type="checkbox"/> Continued on Attachment 3.b.(1). (2) Defendant has no information or belief that the following statements are true, so defendant denies them (use paragraph numbers or numbers): <input type="checkbox"/> Continued on Attachment 3.b.(2). If this form is used to answer a cross-complaint, check this box.	WRITE IN YOUR NAME. IF THERE IS MORE THAN DEFENDANT LISTED IN THE COMPLAINT EACH MUST RESPOND, OR A DEFAULT MAY BE ENTERED AGAINST THE ONE WHO FAILS TO FILE AN ANSWER. TWO DEFENDANTS MAY SHARE ONE ANSWER FORM, BUT EACH MUST SIGN THE ANSWER AND PAY A SEPARATE FILING FEE.
	FIRST LOOK AT THE LAST PAGE OF THE COMPLAINT WHERE IT IS SIGNED BY THE PLAINTIFF OR THEIR ATTORNEY AND SEE IF THERE IS A "VERIFICATION". IF NOT, YOU CAN CHECK BOX 3(a) GENERALLY DENYING ALL STATEMENTS CONTAINED IN THE COMPLAINT.
	IF THERE IS A VERIFICATION, YOU MUST CHECK BOX 3(b) AND RESPOND TO EACH PARAGRAPH OF THE COMPLAINT BY EITHER: IF YOU ARE ADMITTING ALL THE STATEMENTS IN THE COMPLAINT ARE TRUE, YOU ONLY NEED TO MARK 3(b).
	IF YOU ARE DENYING ANY OF THE STATEMENTS IN THE COMPLAINT, YOU NEED LIST THE PARAGRAPH NUMBERS OF THOSE STATEMENTS HERE UNDER 3(b)(1).
	IF YOU DO NOT KNOW IF ANY OF THE STATEMENT IN THE COMPLAINT ARE TRUE OR FALSE BECAUSE YOU DO NOT HAVE ENOUGH INFORMATION, THEN LIST THE PARAGRAPH NUMBERS OF THOSE STATEMENTS HERE UNDER 3(b)(2).

The next section of the form is at the top of page two and looks like this:

SHORT TITLE: Last Name of Plaintiff vs. Last Name of Defendant	PLD-C-010 CASE NUMBER: WRITE IN THE CASE NUMBER AS SHOWN ON THE SUMMONS
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ANSWER—Contract

4. AFFIRMATIVE DEFENSES Defendant alleges the following additional reasons that plaintiff is not entitled to recover anything:

ALTHOUGH MANY DEFENDANTS BELIEVE THEY HAVE A MORAL DEFENSE FOR NOT PAYING A DEBT, SUCH AS LOSING A JOB OR A SPOUSE, THE LAW ONLY RECOGNIZES CERTAIN KINDS OF LEGAL DEFENSES TO A LAWSUIT. AFFIRMATIVE DEFENSES ARE LEGAL DEFENSES THAT RAISE NEW FACTS OR ISSUES NOT STATED IN THE COMPLAINT. IF YOU WANT THE COURT TO CONSIDER YOUR LEGAL DEFENSES YOU MUST INCLUDE THEM IN YOUR ANSWER.

MANY COMMON AFFIRMATIVE DEFENSES CAN BE FOUND ON AN ATTACHMENT LIST INCLUDED IN THIS PACKET. IF YOU CHOOSE TO ATTACH ONE OF THE AFFIRMATIVE DEFENSE LISTS, MARK THE BOXES NEXT TO THE DEFENSES THAT YOU BELIEVE APPLY TO YOU AND PLACE THE ATTACHMENT BEHIND THE ANSWER FORM. BE SURE TO CHECK THE "CONTINUED ON ATTACHMENT 4" BOX BELOW.

5. Continued on Attachment 4.
 Other:

6. DEFENDANT PRAYS

a. that plaintiff take

b. *for costs of suit.*

c. other (specify):

IF YOU BELIEVE YOU DO NOT OWE THE PLAINTIFF ANY MONEY AT ALL, AND THAT YOU SHOULD NOT HAVE BEEN SUED, YOU CAN ASK THE COURT TO ORDER THE PLAINTIFF TO PAY YOU BACK THE COSTS YOU PAID TO THE COURT TO FILE YOUR ANSWER. YOU DO THIS BY CHECKING BOX (B). IF YOU WANT THE COURT TO ORDER SOMETHING ELSE, YOU CAN MARK BOX (C) AND EXPLAIN WHAT YOU WANT.

WARNING! IF YOU BELIEVE THE PLAINTIFF OWES YOU MONEY OVER AND ABOVE WHAT THE PLAINTIFF IS SUING YOU FOR, YOU MUST FILE A CROSS-COMPLAINT IF YOU WANT THE COURT TO ORDER THE PLAINTIFF TO PAY YOU MONEY. THE COURT CANNOT ORDER THE PLAINTIFF TO PAY YOU MONEY OTHER THAN YOUR COSTS OF SUIT, BASED ON YOUR ANSWER ALONE.

PRINT YOUR NAME	SIGN YOUR NAME
..... (Type or print name)	_____ (Signature of party or attorney)

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <div style="border: 1px solid red; padding: 5px; text-align: center;"> YOUR NAME HERE YOUR STREET ADDRESS HERE YOUR CITY, STATE, and ZIP CODE HERE </div> TELEPHONE NO: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): IN PRO PER		FOR COURT USE ONLY CASE NO: COURT CASE NUMBER HERE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>Stanislaus</u> STREET ADDRESS: 1100 COURT'S PHYSICAL ADDRESS HERE MAILING ADDRESS: P.O. COURT'S MAILING ADDRESS HERE CITY AND ZIP CODE: Modesto, CA 95201 COURT'S CITY, STATE, and ZIP CODE HERE BRANCH NAME: _____		
PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____ <div style="border: 1px solid red; padding: 5px; text-align: center; margin-top: 10px;"> FILL THIS OUT EXACTLY AS IT APPEARS ON YOUR OTHER DOCUMENTS </div>		
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL		

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is: SERVER'S NAME
SERVER'S STREET ADDRESS
SERVER'S CITY, STATE, AND ZIP CODE
3. On (date): DATE MAILED I mailed from (city and state): _____ CITY & STATE WHERE MAILED
 the following documents (specify):

WRITE IN "ANSWER TO COMPLAINT"
- The documents listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) are CHECK THIS BOX
4. I served the documents by enclosing them in an envelope and (check one):
 - a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. Name of person served: PLAINTIFF'S ATTORNEY'S NAME OR PLAINTIFF'S NAME IF NO ATTORNEY
 - b. Address of person served: ADDRESS WHERE OTHER PARTY WAS SERVED

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: SERVER'S PRINTED NAME SERVER'S SIGNATURE

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM) (SIGNATURE OF PERSON COMPLETING THIS FORM)