

## Responding to a Debt Collection Lawsuit (Answer-Contract)

When a lawsuit is started against you, you will be served with a Summons and Complaint. Ideally, these will be personally served (delivered to you in person). Service is valid even if you refuse to take them, as long as the server informs you that they are legal documents and leaves them with you, even on the ground.

If the server cannot find you after several attempts, they can leave them at your home or business with an adult, and then mail you a copy. This is called “substituted service” and it is valid as well, as long as they have tried several times to serve you personally first.

These documents formally notify you that a lawsuit has been initiated, and what the lawsuit is about.

### You have three basic options once you are sued

#### Related Step-by-Step Guides

##### [Fee Waivers](https://www.saclaw.org/resource_library/fee-waiver/)

[\(https://www.saclaw.org/resource\\_library/fee-waiver/\)](https://www.saclaw.org/resource_library/fee-waiver/)

##### [Service by Mail](https://www.saclaw.org/resource_library/serving-documents-by-mail/)

[\(https://www.saclaw.org/resource\\_library/serving-documents-by-mail/\)](https://www.saclaw.org/resource_library/serving-documents-by-mail/)

##### [Responding to a Lawsuit](https://www.saclaw.org/resource_library/responding-to-a-lawsuit/)

[\(https://www.saclaw.org/resource\\_library/responding-to-a-lawsuit/\)](https://www.saclaw.org/resource_library/responding-to-a-lawsuit/)

### 1. Respond to the lawsuit

If you believe you have a valid legal defense to this lawsuit and wish to defend yourself, you will need to file a response. There are many methods for responding to this type of lawsuit. One common method is to file an Answer. This Guide provides information about filing an Answer to a Breach of Contract case.

You have 30 days from the day you were personally served to file a written response **in proper legal form**. If you received the documents by substituted service, you have 40 days after the date the documents were mailed to file a written response in proper legal form. Your 30 (or 40) days start the day after service. If the 30th (or 40th) day falls on a weekend or court holiday, you have until the end of the next business day to file your papers.

### 2. Allow the plaintiff to obtain a default judgment

Many people who do not have a valid legal defense to this type of case choose not to respond. (Note: not having the money to make payments is NOT a valid legal defense!). If you do not respond to the lawsuit, the other party may get a default judgment against you. This means that the other party wins, and the court will not consider anything you have to say.

Although this may sound bad, for many people it is the quickest, least expensive way to resolve the case. To file a response to the lawsuit, you will have to pay a court filing fee of \$225-\$435, based on the amount you're being sued for. (See [Sacramento County Superior Court's fee schedule](http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf) (<http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf>) or your own county court website for the current fee.) Low-income people may qualify for a [fee waiver](https://saclaw.org/resource_library/fee-waiver/) ([https://saclaw.org/resource\\_library/fee-waiver/](https://saclaw.org/resource_library/fee-waiver/))

If you lose the case, you will be responsible for the other party's court and attorney fees. If you do not respond and the judgment is obtained by default, these fees are usually less because the attorney has spent less time working on the case. Once a default judgment is entered against you, the plaintiff may begin collection efforts, such as garnishing your wages or levying your bank account. The judgment will appear on your credit report for at least seven years. The judgment can be renewed, and re-reported on your credit report until paid in full

### 3. Try to negotiate a settlement

You can attempt negotiations at any time during your case. Your negotiations **do not** automatically stop the lawsuit. The other party can proceed with a default judgment against you unless you file a response with the court. If you attempt negotiations prior to filing a response, you may want to ask the other party for additional time to reply to the lawsuit, in case your negotiations fall through. Be sure any agreement you reach is in writing.

If you reach a settlement, the other party should dismiss your case using a [Request for Dismissal \(CV-110\)](http://www.courts.ca.gov/documents/civ110.pdf) (<http://www.courts.ca.gov/documents/civ110.pdf>). The first question on this form indicates if the case is being dismissed "With Prejudice" or "Without Prejudice." This indicates whether the case may be refiled in the future. "With Prejudice" means the case is permanently dismissed; the plaintiff is waiving the right to refile. This is common if the plaintiff agrees to accept, and the defendant pays, a lump-sum payment. "Without Prejudice" means that the case is dismissed, but the plaintiff reserves the right to refile the case if necessary. This is common if the plaintiff agrees to allow payments over time. If you miss a payment, they may refile the lawsuit.

Make sure the dismissal is entered with the court by checking online. In Sacramento County, civil records are online at [the Court's Public Portal](http://services.saccourt.ca.gov/PublicCaseAccess/Home/Help). (<http://services.saccourt.ca.gov/PublicCaseAccess/Home/Help>)

### Fees and fee waivers

If you decide to respond, you will need to pay a filing fee based on the amount you are being sued for. Your fee is \$225 if you are being sued for up to \$10,000; \$370 if you are being sued for above \$10,000 and up to \$35,000; and \$435 for amounts over \$35,000. These fees may change. See [Sacramento County Superior Court's fee schedule](http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf) (<http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf>) or your own county court website for the current fee.

If you cannot afford the fee, you can request a fee waiver using Request to Waive Court Fees (FW-001). If you do, you will not have to pay when you file. If the court denies the fee waiver, you will have to pay after you receive the denial.

### If You Decide to Respond....

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## 1. Review the Summons and Complaint

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## 2. Fill Out the Necessary Forms

### A. Answer Packet

**[Answer-Contract \(PLD-C-010\)](http://www.courts.ca.gov/documents/pldc010.pdf)** (<http://www.courts.ca.gov/documents/pldc010.pdf>). This is the official fill-in-the-blanks form to answer a breach of contract case. This form may be used in any Superior Court in California.

**[Affirmative Defenses \(Attachment 4\)](https://saclaw.org/wp-content/uploads/form-attach4.pdf)** (<https://saclaw.org/wp-content/uploads/form-attach4.pdf>). In your Answer, you can present information or evidence that reduces or eliminates your liability, even if the allegations in the complaint are true. These are called “affirmative defenses.”

Affirmative defenses are legal reasons why, even if everything happened just as described by the plaintiff, you should not be held liable. One example of an affirmative defense is that the statute of limitations has run out—that is, the plaintiff’s deadline to file the lawsuit has run out. There many affirmative defenses available.

The Affirmative Defenses attachment 4 form describes the most common defenses to a breach of contract case. After reviewing this form, you may decide that none of the affirmative defenses it describes apply to your case. If you choose not to raise any of these defenses, you do not need this form.

The Sacramento County Superior Court accepts this form when attached to the Answer-Contract (PLD-C-010), but not all courts do. If you want to use this form in a different county, check with the court clerk first to see if they will accept it.

**[Verification](https://saclaw.org/wp-content/uploads/2024/03/sbs-answer-k-verification.pdf)** (<https://saclaw.org/wp-content/uploads/2024/03/sbs-answer-k-verification.pdf>) (optional). This is only required if (1) the Complaint demands over \$25,000 and (2) the Plaintiff verifies the Complaint. [CCP § 446](#) ([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CCP&sectionNum=446](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=446)). If you use it, the Verification should be the last page of your Answer.

Combine the Answer-Contract, Affirmative Defenses (if using), and Verification (if using) into one packet (“the Answer Packet”)

Your affirmative defenses must be raised in your Answer, and all facts essential to supporting the particular defense must be included. If you do not raise a particular defense in your Answer, you will be prohibited from using or raising it later on ([CCP § 431.30\(b\)\(2\)](#))

([https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CCP&sectionNum=431.30](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=431.30)).

## B. Proof of Service Form

You will need to have someone — NOT YOU — mail the Answer to the plaintiff before you file it. The person who serves (mails) the Answer Packet for you needs to sign a Proof of Service. You can fill out some of it now. Complete the caption of the form with your name and address, the court's information, and the names of the plaintiff and defendant(s).

Question 5 asks for the name and address of the person served. Use the name and address on the top left corner of the first page of the Complaint. If the plaintiff is represented by a lawyer, you will be sending it to the lawyer, not the plaintiff themselves.

Your server will complete the rest of this form and sign it. For more information, see our guide on "[Service by Mail](#)." (<https://www.saclaw.org/video-library/service-of-court-papers-by-mail-how-to/>)

## C. Fee Waiver Request (optional)

If you wish to ask the court to waive court fees, or let you make payments over time, you will need to complete the Request for Fee Waiver (FW-001). For more information, see our guide on [Fee Waivers](#).

([https://www.saclaw.org/resource\\_library/fee-waiver/](https://www.saclaw.org/resource_library/fee-waiver/))

## 3. Make Copies of All Forms

Combine the Answer-Contract (PLD-C-010), Affirmative Defenses (if using), and Verification (if using). **Make two copies** of that packet. Staple the copies, but leave the original unstapled. One copy will be served on the plaintiff. The original and one copy will be filed in court.

**Make one copy** of the Proof of Service (POS-030).

**Make one copy** of the Request to Waive Court Fees (FW-001). The original and one copy will be filed in court.

## 4. Have someone else serve the papers

Someone over the age of 18 who is not a party to the case – **NOT YOU** – must serve your documents.

In **Step 2**, you completed several questions on the Proof of Service form; your server will need to finish the form by adding his or her address and the date and location of mailing. They should not sign this form yet.

In **Step 3**, you made two copies of your Answer Packet and two copies of your unsigned proof of service. Have

the server one copy of each by regular mail (in the same envelope is fine).

You do not need to use certified mail. In fact, if you do, the plaintiff can refuse to take it and your service will fail.

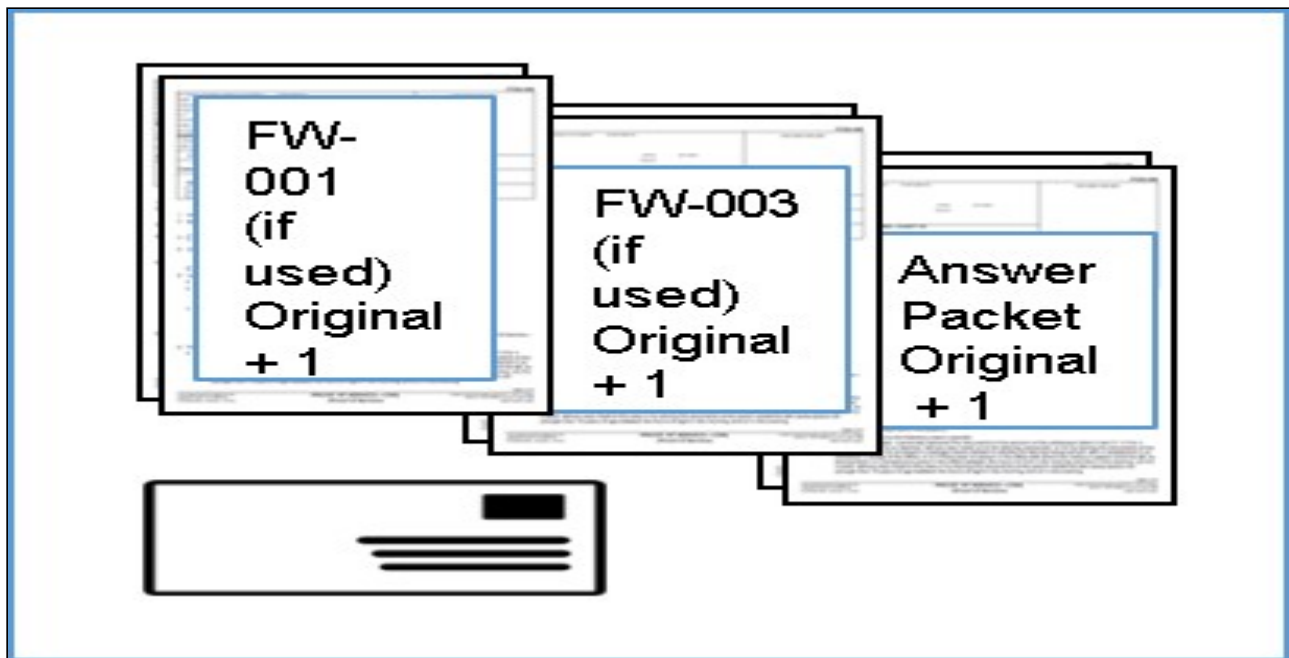
After the server mails the packet, they must fill in any missing information on the Proof of Service, sign the original Proof of Service, and return it to you for filing.

## 5. Copy the Signed Proof of Service

Make one copy of the **signed** Proof of Service. Add the original signed Proof of Service to the original Answer Packet (it should be the last page). Staple the copy signed Proof of Service to the back of the copy Answer Packet.

## 6. Assemble Papers for Filing

After service, you will need to file your documents with the court. The court is very particular about how you file the papers. You need to file the original and one copy of each document. The original will be unstapled in Sacramento, while the copy is stapled. Assemble your packet as follows:



- Request to Waive Court Fees (FW-001) plus one copy, if requesting fees be waived. The original will be unstapled in Sacramento, while the copy is stapled.
- Answer Packet (Answer (PLD-C-010), Affirmative Defenses (if using), Verification, (if using), and signed Proof of Service by Mail (POS-030)) plus one copy. The original will be unstapled in Sacramento, while

the copy is stapled.

- **OPTIONAL:** If you want the court to return a stamped copy, include one extra copy of each document and a self-addressed, stamped envelope. You can also download free copies from the court's website at any time.

## 7. Filing and Fees

Your Answer Packet is filed in the drop box in Room 102 in the Sacramento Superior Court at 720 Ninth Street. A supply of binder clips, Civil Document Drop-Off Sheets, and a date stamp are located near the drop box.

[Credit cards are not accepted for filing answers](https://www.saccourt.ca.gov/civil/docs/gds-civil-filing-guidelines.pdf) (<https://www.saccourt.ca.gov/civil/docs/gds-civil-filing-guidelines.pdf>).

Fill out and attach the [Civil Document Drop-Off Sheet](http://www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf). (<http://www.saccourt.ca.gov/forms/docs/cv-drop-off-sheet.pdf>) Date stamp the back of the original packet. Use a binder clip to fasten together the papers; self-addressed stamped envelope, and payment (check or money order) or fee waiver forms. Put this packet into the drop box.

The court will process the paperwork and upload a copy to the court website. If you included an extra copy and self-addressed, stamped envelope, they will also send you copy stamped "Endorsed/Filed." to the filing party.

## What's Next?

If the defendant files an Answer (or other response), the parties begin the long process of preparing for trial. There will be many more documents to file and serve throughout the lawsuit. For an overview, see our article, "[Steps in a Lawsuit](https://saclaw.org/resource_library/steps-in-a-lawsuit/)" ([https://saclaw.org/resource\\_library/steps-in-a-lawsuit/](https://saclaw.org/resource_library/steps-in-a-lawsuit/)).

## For Help

**[SH@LL \(Self-Help at the Law Library\)](https://saclaw.org/services/civil-self-help/)** (<https://saclaw.org/services/civil-self-help/>) (formerly Civil Self Help Center)

609 9<sup>th</sup> Street, Sacramento CA 95814

(916) 476-2731 (Appointment Request Line)

*Services Provided:* SH@LL provides general information and basic assistance to self-represented litigants on a variety of civil legal issues, including name changes. All assistance is provided by telephone. Visit "[What we can help with](https://saclaw.org/services/civil-self-help/#canhelp)" (<https://saclaw.org/services/civil-self-help/#canhelp>)" for a list of qualifying cases.

*Eligibility:* Must be a Sacramento County resident or have a [qualifying case](https://saclaw.org/services/civil-self-help/#who) (<https://saclaw.org/services/civil-self-help/#who>) in the Sacramento County Superior Court.

## For More Information

### At the Law Library:

**Win Your Lawsuit** KFC 968 .Z9 D86 (Self Help) Chap. 10 Discovery, Chap. 12 Preparing for Trial

## Samples

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): TELEPHONE: 916-555-1234  
 Paul Sample  
 1234 Main Street  
 Sacramento, CA 95814

ATTORNEY FOR (NAME): In Pro Per

Insert name of court, judicial district or branch court, if any, and post office and street  
 Superior Court of California County of Sacramento  
 720 Ninth Street  
 Sacramento, CA 95814  
 Civil Division

PLAINTIFF:  
 Debt Recovery Services, Inc

DEFENDANT:  
 Paul Sample

**ANSWER—C**

TO COMPLAINT OF (name): Debt Recovery Services, Inc.  
 TO CROSS-COMPLAINT (name):

CASE NUMBER:  
 34-2012-00012345

This pleading, including attachments and exhibits, contains 6 pages.

DEFENDANT (name): Paul Sample

3. Check ONLY ONE of the next two boxes:

a.  Defendant generally denies each statement of the complaint or cross-complaint. (Do not check this box if the verified complaint or cross-complaint demands more than \$1,000.)

b.  Defendant admits that all of the statements of the complaint or cross-complaint are true EXCEPT:

(1) Defendant claims the following statements are false (use paragraph numbers or explain):  
 3, 4, 6, 9, 10, 11

Continued on Attachment 3.b.(1).  
 Defendant has no information or belief that the following statements are true, so defendant denies them (use paragraph numbers or explain):  
 5, 7, 8

Continued on Attachment 3.b.(2).

If this form is used to answer a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

Form Approved for Optional Use  
 Judicial Council of California  
 PLD-C-010 (Rev. January 1, 2007)

**ANSWER—Contract**

Code of Civil Procedure, § 425.12  
 www.courtinfo.ca.gov

Page 1 of 2

Answer-Contract (PLD-C-010) (page 1)

Your name, address, and phone number. "In Pro Per" means you're representing yourself.

the Clear This Form button at the end of the form when finished.

Court name, address, and branch

Enter the party names, exactly as they appear on the complaint

Check this box and enter the Plaintiff's name

Case Number

Check this box if the complaint is NOT verified and you wish to deny every claim in the complaint. If you check this box, skip the next question

Enter your name, as it appears on the complaint.

The total number of pages in your Answer. This includes attachments such as the Affirmative Defenses and Verification

If the Complaint is verified, you MUST check 3b. List the number for each paragraph or question on the Complaint that you claim are false. If you've checked 3a, do not complete 3b.

If you need additional space to write your statement, you may check the box and attach a page labeled "Attachment 3b(1)" or "Attachment 3b(2)" at the end of this form.

List the number for each paragraph or question on the Complaint that you don't know is true or false. If you've checked 3a, do not complete 3b.



<p>SHORT TITLE: <b>Debt Recovery Services, Inc. vs. Sample</b></p>	<p>PLD-C-010 CASE NUMBER: <b>34-2012-00012345</b></p>
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**ANSWER—Contract**

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

If you want to assert any affirmative defenses, you can either list them here, or check the "Continued" box and include an attachment such as the Affirmative Defenses form. The form is already labeled "Attachment 4". If you use a different attachment, label it "Attachment 4".

Continued on Attachment 4.

5.  **Other**  
In denying the allegations of the Complaint, above, defendant denies not only the specific numbers and amounts alleged by plaintiff, but all other numbers and amounts claimed.

If you have any other information you need to include in your Answer, check this box and write in that information here.

6. **DEFENDANT PRAYS**

a. that plaintiff take nothing.  
b.  for costs of suit.  
c.  other (specify):

If you would like the other party to reimburse you for court fees and other costs if you win this case, check box 6b.

**Print your name and sign.**

Paul Sample (Type or print name) \_\_\_\_\_ (Signature of party or attorney)

PLD-C-010 (Rev. January 1, 2007) Page 2 of 2

**ANSWER—Contract**

Answer-Contract (PLD-C-010) (page 2)

Date Created  
03/30/2023