Missing Declaration of Venue or Statement of Damages Requirement Can Trip You Up

When you file and serve a new lawsuit, be careful to consider whether you need a *Declaration of Venue* or *Statement of Damages* and/or *Notice of Reservation of Rights to Punitive Damages.* If you later file a Request for Default, not having these served with the Summons and Complaint can slow or even prevent your default from being entered. Serving one of these late re-opens the time period for the defendant to respond, so they have another chance to defeat your default request.

Declaration of Venue

If your lawsuit is for a *loan for personal or household use*, you must serve the defendant with a Declaration of Venue before obtaining a default. If you did not serve it with the Summons and Complaint, you must serve it later, by personal service, and service **gives the defendant another 30 days to respond** (40 if by substituted service). (CCP § 396a(a) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=396a.&lawCode=CCP)). (This requirement also applies to car dealers and retail installment contracts.)

The purpose of the Declaration of Venue is to establish that you are suing in an appropriate county, such as the county where the defendant lives, where the contract was entered into, or where the breach took place. If these requirements are not met, the court does not have jurisdiction to enter a judgment.

If your case requires a Declaration of Venue, the Clerk **will** reject your Request for Default unless you include proof of service of one.

You can find a Declaration of Venue form on the Find-A-Form (https://www.saclaw.org/learn/find-a-form/) page of our website.

Statement of Damages

In any case where you did not include a specific dollar amount in your request (such as a case for physical damages), you must serve a Statement of Damages (CIV-050 (http://www.courts.ca.gov/documents/civ050.pdf)) — stating the nature and amount of damages you are seeking — prior to requesting a default.

You can serve this along with the summons and complaint, but if you do not, you must have it served by personal service prior to requesting a default judgment. (CCP § 425.11 (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=425.11.&lawCode=CCP)) This, too, gives the defendant another 30 (or 40) days to respond.

The purpose of the Statement of Damages is to let the defendant know how much you are seeking. Because you are not permitted to put a specific dollar amount in a complaint for physical injury, the Statement of Damages is required before the judgment can be entered.

You can find a Statement of Damages on the California Courts' forms (http://www.courts.ca.gov/forms) web page.

Reservation of Right to Punitive Damages

Finally, in any case where you requested punitive damages, you must serve a Reservation of Rights to Punitive Damages stating the amount sought. (CCP § 425.115 (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=425.115.&lawCode=CCP)). () Again, this can be served with the complaint, but if you did not, you must have it served by personal service prior to requesting a default, and the defendant gets another 30 (or 40) days to respond.

If you are serving a Statement of Damages, there is space for this reservation of rights on the same form. You can also serve the Reservation of Rights notice separately, as a simple document on pleading paper.

You can find a Notice of Reservation of Rights to Punitive Damages form on our Find-a-Form page (https://www.saclaw.org/learn/find-a-form/) .