Notice of Automatic Stay

Filing for bankruptcy immediately stops all attempts to collect debts included in the bankruptcy from you, including lawsuits. This is known as the "automatic stay."

Perhaps you have been sued, and are planning to file for bankruptcy. Or maybe you are already in bankruptcy, and you have received a summons and complaint. Either way, you need to let the plaintiff and the Superior Court know about the bankruptcy so the state case is put on hold. The federal court trumps the state court, but the only way the state court will know about the bankruptcy and stay is if you file a *Notice of Stay of Proceedings* (http://www.courtinfo.ca.gov/forms/fillable/cm180.pdf) (CM-180). This guide explains the process and contains a sample of the *Notice of Stay of Proceedings* (CM-180) and accompanying *Proof of Service* (http://www.courtinfo.ca.gov/forms/fillable/pos030.pdf) (POS-030).

Templates and Forms

- Notice of Stay of Proceedings (CM-180) (https://www.courtinfo.ca.gov/forms/fillable/cm180.pdf)
- Proof of Service by Mail (POS-030) (https://www.courtinfo.ca.gov/forms/fillable/pos030.pdf)

You will need a copy of the first page of your Petition for Bankruptcy, stamped by the court and showing your case number. Using the information from your bankruptcy case, fill out the *Notice of Stay of Proceedings* (CM-180), attach the copy of the Petition for Bankruptcy (first page), and file and serve it in the state court case. If you have not yet responded to the state court case, you may want to file an Answer along with this notice to protect yourself in case the bankruptcy is dismissed.

Related Step by Step Guides

- Responding to a Lawsuit (https://www.saclaw.org/resource_library/responding-to-a-lawsuit/)
- Answer: Contract (https://www.saclaw.org/resource_library/answer-contract/)

More Resources:

- Bankruptcy Topic Page (https://saclaw.org/legal_topic/bankruptcy/)

Step by Step Instructions

1 Complete the Required Forms

The Judicial Council forms commonly used in this procedure are

- *Notice of Stay of Proceedings* (http://www.courtinfo.ca.gov/forms/fillable/cm180.pdf) (CM-180)
- *Proof of Service* (http://www.courtinfo.ca.gov/forms/fillable/pos030.pdf) (POS-030)

You will also need a copy of your filed Petition for Bankruptcy (first page), showing the date you filed and the bankruptcy case number.

Sample filled-in forms with instructions are available at the end of this Guide.

2 Prepare Response to State Lawsuit, if Needed

If you have not already filed a response (such as an answer) in the state lawsuit, prepare a response. Contact the Law Library or an attorney for more information about this step.

If you are a Sacramento County resident, or have a qualifying (https://saclaw.org/self-help/civil-self-help-center/cshc-services/) case in the Sacramento County Superior Court, SH@LL, the Law Library's self-help service, may be able to assist you with preparing the response. For more information, see our SH@LL (Self Help @ the Law Library) page (https://saclaw.org/services/civil-self-help/) .

3 Make Copies

Make four (4) copies of your *Notice of Automatic Stay* (CM-180) and the file-stamped copy of your Petition for Bankruptcy (first page). One of these copies is to be served on the other side's attorney (or the other party, if the other side does not have an attorney); the original and the other three copies are to be filed with the court. Staple each of the copies, but leave the original unstapled. Sacramento County Superior Court uses an electronic filing system in which

documents are scanned in electronically. Stapled originals are not accepted because the staple will jam in the scanner, damaging both the document and the scanner.

If you are filing an Answer or other response, make four (4) copies of that as well, in the same manner.

4 Have Your Documents Served

The person who is serving your Notice of Automatic Stay for you must complete a proof of service form, typically, either a *Proof of Personal Service* (POS-020) or a *Proof of Service by First Class Mail* (POS-030). For more information on these proofs of service, see our Guides on Personal Service (https://www.saclaw.org/resource_library/personal-service/) and Service by Mail (https://www.saclaw.org/resource_library/serving-documents-by-mail/) .

The Proof of Service form should be completely filled out, but not signed. **Make a copy of the unsigned Proof of Service form before proceeding.**

The server must then personally deliver or mail a copy of the Notice and Petition along with a copy of the unsigned Proof of Service on the opposing attorney or self-represented litigant. The unsigned Proof of Service form can be included as the last page of the packet.

The person doing the serving then signs the Proof of Service form, and gives the signed Proof of Service to you.

If you are filing an Answer, have them deliver or mail it as well, and fill out a separate Proof of Service for it.

5 File Your Documents

The Notice of Automatic Stay documents are filed in the drop box at the Tani G. Cantil-Sakauye Courthouse at 500 G Street, Second Floor, Sacramento CA 95814. Fill out and attach the *Civil Document Drop-Off Sheet* (https://www.saccourt.ca.gov/home/showpublisheddocument/861/639099448674370000) , and date stamp the back of the original packet. A supply of *Civil Document Drop-Off Sheets* and a date stamp are located near the drop box. Following the instructions posted at the drop box, place the

unstapled original document packet plus three copies of the packet in the drop box, along with a check or money order for the filing fee, if any. **Provide the court with a self-addressed stamped envelope with sufficient postage to facilitate the return of your documents to you.**

The remaining copies of the packet, if any, are for the filing party's records. The court will process the paperwork, and return two copies, stamped "Endorsed/Filed," to the filing party. The court will retain the original papers for its file.

Put the original signed *Proof of Service* (POS-030) with your original signed set of papers.

If you are filing an Answer at the same time, file the Answer and its Proof of Service in the same manner.

You May Qualify for a Fee Waiver

Fees: If the *Notice of Automatic Stay* is the first paper you have filed in this case, or if you are filing an Answer along with the *Notice*, there will be a fee, currently ranging from $225-$435. Current fees can be found on the Sacramento County Court Fee Schedule (https://www.saccourt.ca.gov/home/showpublisheddocument/219/639084032985130000) .

If you are low income or receive government benefits, you may qualify for a fee waiver. See our Fee Waiver guide (https://www.saclaw.org/resource_library/fee-waiver/) for more information.

For help

For help with bankruptcy:

Bankruptcy Pro Se Assistance Desk
Federal Courthouse, 501 I Street, 3rd Floor, Room 3-210
Fridays, 9:00 a.m.to 12:00 p.m.
Services provided: A volunteer attorney can help select bankruptcy forms, explain your rights and duties during bankruptcy, and answer questions about procedures.

Debt Collection Defense and Bankruptcy Clinic (Capitol Pro Bono)
517 12th Street
916-551-2102

Services provided: Capitol Pro Bono is a nonprofit agency that provides free civil legal assistance to low-income people in Sacramento and surrounding counties. Services include assistance with bankruptcy and other legal problems associated with collection of debts.

Community Legal Services – McGeorge School of Law – Bankruptcy Clinic
916-340-6080
Services provided: Low-income clients are provided legal representation in Chapter 7 proceedings; dischargeability proceedings; and legal advice regarding debt collection issues. Intake is open only during certain times of the year, generally the first two weeks of January and July.

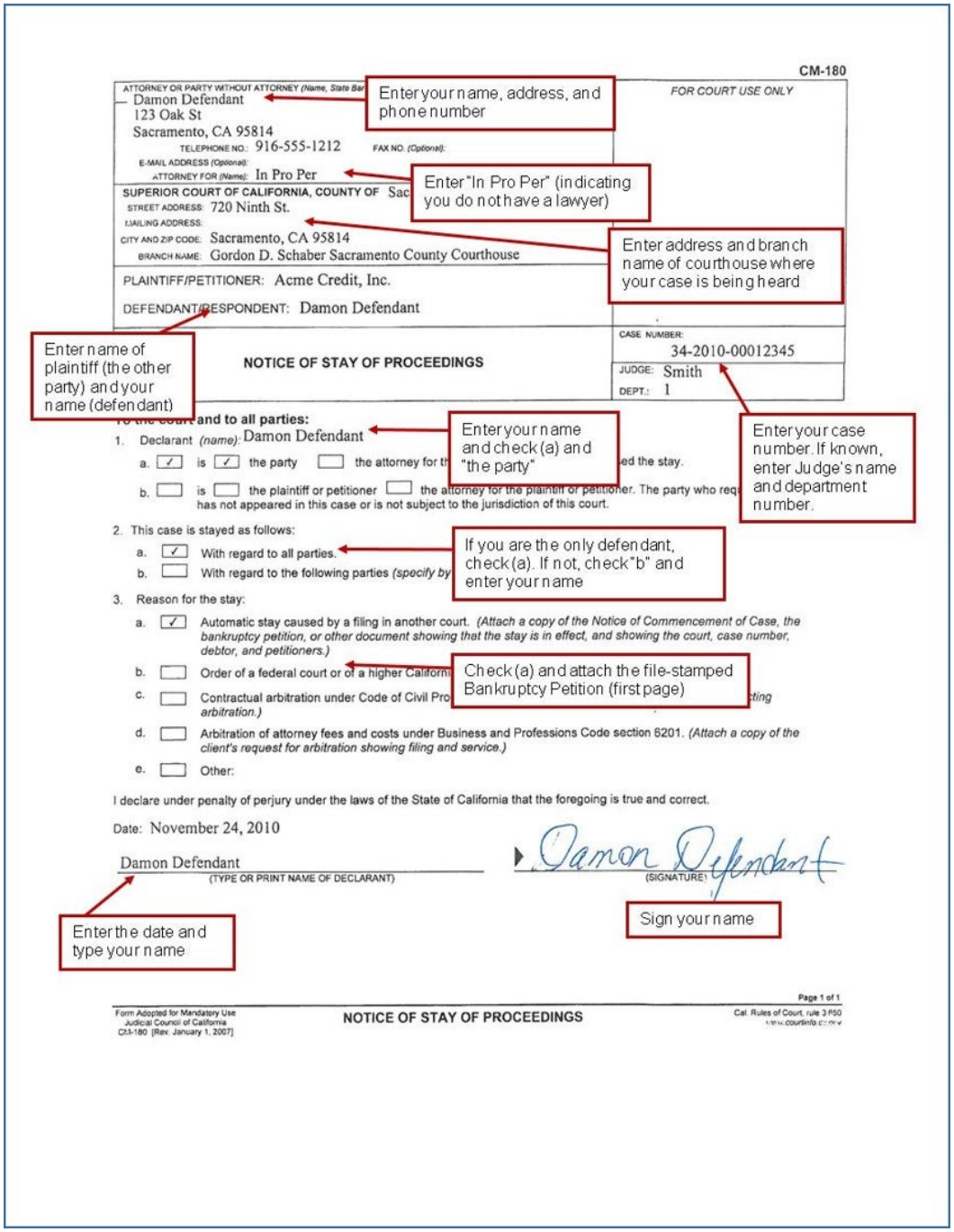
For help responding to a civil Summons and Complaint:

SH@LL (Self-Help at the Law Library) **(https://saclaw.org/services/civil-self-help/)**
609 9th Street, Sacramento CA 95814
(916) 476-2731 (Appointment Request Line)

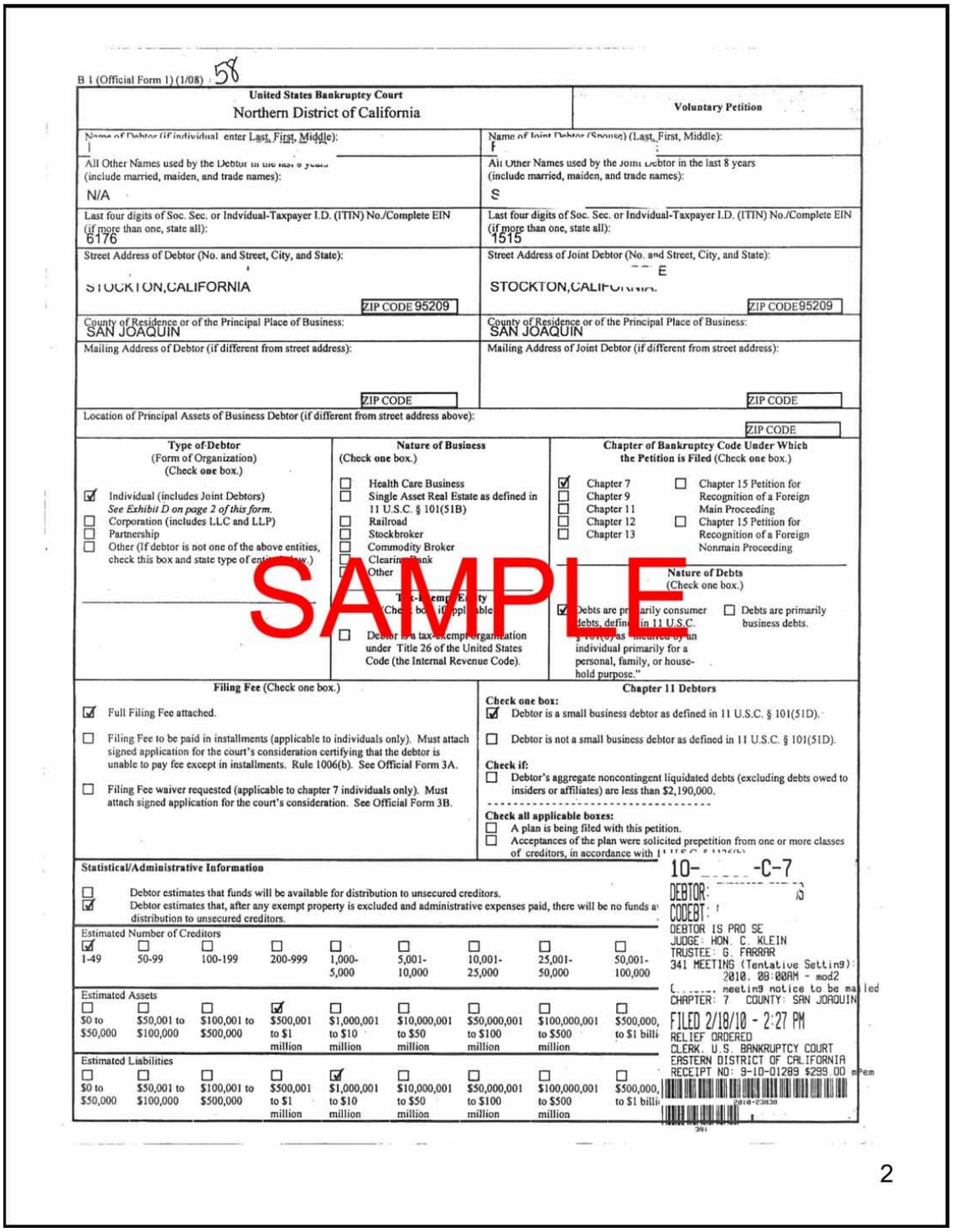
Services Provided: SH@LL provides general information and basic assistance to self-represented litigants on a variety of legal issues. All assistance is provided by telephone. Visit "What we can help with (https://saclaw.org/services/civil-self-help/#canhelp) " for a list of qualifying cases.

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

Samples



Notice of Stay of Proceedings (CM-180) (page 1)



B 1 (Official Form 1) (1/08) 58

United States Bankruptcy Court Northern District of California	Voluntary Petition
Name of Debtor (if individual, enter Last, First, Middle): I	Name of Joint Debtor (Spouse) (Last, First, Middle): F
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): N/A	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names): S
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): 6176	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): 1515
Street Address of Debtor (No. and Street, City, and State): STOCKTON,CALIFORNIA ZIP CODE 95209	Street Address of Joint Debtor (No. and Street, City, and State): E STOCKTON,CALIFORNIA ZIP CODE 95209
County of Residence or of the Principal Place of Business: SAN JOAQUIN	County of Residence or of the Principal Place of Business: SAN JOAQUIN
Mailing Address of Debtor (if different from street address): ZIP CODE	Mailing Address of Joint Debtor (if different from street address): ZIP CODE
Location of Principal Assets of Business Debtor (if different from street address above): ZIP CODE	

Type of Debtor (Form of Organization) (Check one box.)

- ☑ Individual (includes Joint Debtors) *See Exhibit D on page 2 of this form.*
- ☐ Corporation (includes LLC and LLP)
- ☐ Partnership
- ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below.)

Nature of Business (Check one box.)

- ☐ Health Care Business
- ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101(51B)
- ☐ Railroad
- ☐ Stockbroker
- ☐ Commodity Broker
- ☐ Clearing Bank
- ☐ Other

Tax-Exempt Entity (Check box, if applicable)

- ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).

Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box.)

- ☑ Chapter 7
- ☐ Chapter 9
- ☐ Chapter 11
- ☐ Chapter 12
- ☐ Chapter 13
- ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding
- ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding

Nature of Debts (Check one box.)

- ☑ Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."
- ☐ Debts are primarily business debts.

Filing Fee (Check one box.)

- ☑ Full Filing Fee attached.
- ☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.
- ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.

Chapter 11 Debtors

Check one box:

- ☑ Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).
- ☐ Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).

Check if:

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,190,000.

Check all applicable boxes:

- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with [illegible]

Statistical/Administrative Information

- ☐ Debtor estimates that funds will be available for distribution to unsecured creditors.
- ☑ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

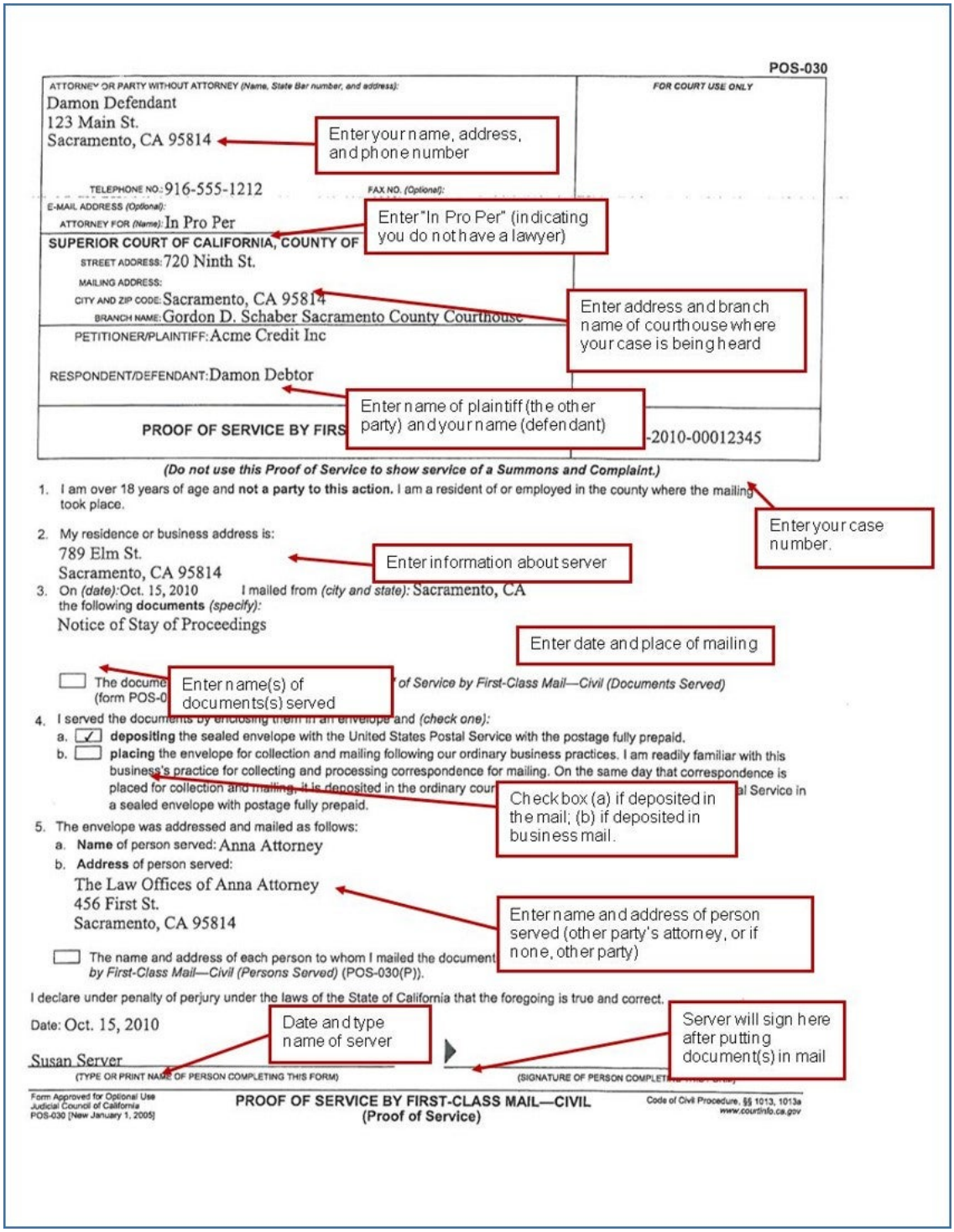
Estimated Number of Creditors									
☑ 1-49	☐ 50-99	☐ 100-199	☐ 200-999	☐ 1,000-5,000	☐ 5,001-10,000	☐ 10,001-25,000	☐ 25,001-50,000	☐ 50,001-100,000	
Estimated Assets									
☐ $0 to $50,000	☐ $50,001 to $100,000	☐ $100,001 to $500,000	☑ $500,001 to $1 million	☐ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,[illegible] to $1 billi	
Estimated Liabilities									
☐ $0 to $50,000	☐ $50,001 to $100,000	☐ $100,001 to $500,000	☐ $500,001 to $1 million	☑ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,[illegible] to $1 billi	

10-[illegible]-C-7
DEBTOR: [illegible] JS
CODEBT: [illegible]
DEBTOR IS PRO SE
JUDGE: HON. C. KLEIN
TRUSTEE: G. FARRAR
341 MEETING (Tentative Setting): 2010. 08:00AM - mod2
C[illegible] meeting notice to be mailed
CHAPTER: 7 COUNTY: SAN JOAQUIN
FILED 2/18/10 - 2:27 PM
RELIEF ORDERED
CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
RECEIPT NO: 9-10-01289 $299.00 mPem

2

SAMPLE

Notice of Stay of Proceedings (CM-180) (page 2)



Notice of Stay of Proceedings – Proof of Service

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