

ANSWER CONTRACT

Responding to a Breach of Contract Lawsuit

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at saclaw.org/answer-contract.

BACKGROUND

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:

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

You may also need....

Related Step-by-Step Guides

- [Fee Waivers](#)
- [Service by Mail](#)
- [Responding to a Lawsuit](#)

*The date stamped on the bottom of the Summons is the date the documents were filed with the court, **not** the date you were served.*

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

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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 www.saccourt.ca.gov/fees/docs/fee-schedule.pdf for the current fee schedule), unless you qualify for a 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 \(CV-110\)](#) (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 www.saccourt.ca.gov. For more information, see the Public Case Access User Guide on the Superior Court's website at services.saccourt.ca.gov/PublicCaseAccess/Home/Help.

Options After Default Judgment

1. Claiming Exemptions

Retirement, disability, and other types of benefits are exempt from collection. See:

[How to File a Claim of Exemption from Wage Garnishment](#)

[How to Ask the Court to Stop or Reduce a Bank Levy](#)

2. Court-ordered installment payments

Ask the court for permission to pay the judgment in installments over time. See:

[Motion to Pay Judgment in Installments](#)

These guides can all be found on our website, saclaw.org.

STEP-BY-STEP INSTRUCTIONS

Step 1: Review the Summons and Complaint

Carefully read the Summons and Complaint you receive, to determine the specifics of the case, including who is suing you, why you are being sued, and the amount being demanded.

You may not recognize the plaintiff's name; it's possible that your debt has been assigned to a third party for collection. This is legal, and very common, especially for cases related to debts such as credit cards and medical bills. The complaint will usually specify who originally held your contract.

Sometimes a Plaintiff will include a *Verification* with their Complaint, where they state under penalty of perjury that everything in the Complaint is true to the best of their knowledge. Verification is required for some types of cases and optional in others.

Read the Complaint carefully, to determine if it is verified. The *Verification* may be attached at the end of the Complaint or may be a separate document.

You will then need to determine if an Answer is appropriate for your case. You may want to consider other responsive options.

For more information to help you make your decision about responding to the lawsuit, see the "Being Sued" page from the California Courts Self Help Website at www.courts.ca.gov/1322.htm.

Step 2: Fill Out Your Papers

If you decide to file an Answer, there are several forms you'll need to complete. Sample filled-out forms and instructions are available at the end of this packet.

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

Possible attachments:

- a) [Affirmative Defenses \(Attachment 4\)](#). 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."

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.

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 ([California Code of Civil Procedure \(CCP\) §§ 312-366.3](#) sets time limits for filing most types of lawsuits).

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\(b\)\(2\)](#)).

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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 it in a different county, check with the court clerk first to see if they will accept it.

- b) **Verification**. This is only required if (1) the Complaint demands over \$25,000 and (2) the Plaintiff verifies the Complaint. [CCP § 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”).

2. Proof of Service by Mail (POS-030). The person who serves (mails) the Answer Packet for you needs to sign this after mailing, but you should fill some of it out 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. This will probably be a lawyer but may be the Plaintiff if they are self-represented.

Your server will complete the rest of this form and sign it. For more information, see our guide on “[Service by Mail](#)” (saclaw.org/mail-service).

3. Fee Waiver forms. 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) and *Order on Fee Waiver* (FW-003). For more information, see our guide on Fee Waivers (saclaw.org/fee-waiver-guide).

Step 3: Make Copies of Your Completed Forms

- Combine the *Answer-Contract*, *Affirmative Defenses* (if using), and *Verification* (if using). Make two copies.
- Unsigned *Proof of Service by Mail*(POS-030): Make one copy.
- *Request to Waive Court Fees* (FW-001) and. *Order on Court Fee Waiver* (FW-003), if using: Make one copy.

Step 4: Have Someone Else Serve the Answer Packet

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 one copy of the unsigned Proof of Service. Staple it to the back of one copy of your Answer Packet. Have the server mail this copy.

After depositing this packet of documents in the mail, your server must fill in any missing information, sign the original *Proof of Service by Mail* (POS-030), and return it to you for filing.

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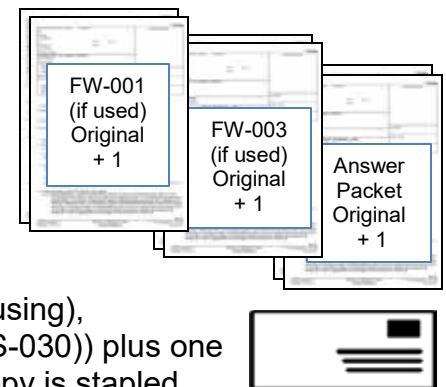
Step 5: Copy the Signed Proof of Service

Make one copy of the signed *Proof of Service by Mail* (POS-030). It is not necessary to copy the instruction page. Place the original with the original Answer Packet. Staple the copy to the back of the copy Answer Packet.

Step 6: Assemble Your 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 beneath it, if requesting fees to be waived. The original will be unstapled in Sacramento, while the copy is stapled.
- *Order on Court Fee Waiver* (FW-003) 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.
- Self-addressed stamped envelope for the court to mail back a stamped copy.



Step 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, Credit Card Authorization Forms (www.saccourt.ca.gov/forms/docs/cv-201.pdf), and a date stamp are located near the drop box

Fill out and attach the *Civil Document Drop-Off Sheet* (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 (Credit Card Authorization Form, check, or fee waiver forms). Put this packet into the drop box.

The court will process the paperwork, and return a copy, stamped “Endorsed/Filed,” to the filing party. The court will retain the original papers for its file.

Fees and fee waivers

Your filing fee, called a “first appearance fee,” is only paid with the first paper that you file in a lawsuit. Most other documents filed later do not have a filing fee, or will have a much lower filing fee.

If you file a *Request to Waive Court Fees* (FW-001), you do not have to pay when you file. You should receive the *Order on Court Fee Waiver* (FW-003) in about five court days.

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If you are not requesting your fees be waived (or if your fee waiver is denied), your filing fee is based on the amount asked for in the Complaint. Check the current fee schedule at www.saccourt.ca.gov/indexes/fees-forms.aspx.

AFTER YOU ANSWER: NEXT STEPS

Serving and filing your Answer are just the first steps in your case. There will be many more documents for you to file and serve throughout the lawsuit.

It will likely be several months before you go to court. As a self-represented litigant, you are responsible for knowing what is happening in your case. In Sacramento County, you are able to access your court file online at any time from www.saccourt.ca.gov. Be sure to check often, to make sure you're not missing anything.

Discovery

The formal process of exchanging documents, evidence, and other information before going to court. For more information, see:

- **Law 101: Discovery** (<https://saclaw.org/law-101/discovery-topic/>)
- **Written Discovery class** (1:30 p.m., 1st Thursdays of the Month) and **Discovery Lab** (1:30 p.m., 2nd & 4th Thursdays of the Month.)
- [Win Your Lawsuit](#), Chapter 10. Available in the Law Library or through our website (saclaw.org/nolo-ebooks)

Case Management Statements and Conferences

Unlimited cases

For Unlimited Cases (over \$25,000), the court requires periodic status reports from the parties, called the [Case Management Statement \(CM-110\)](#). The court will mail out a Notice of Case Management Conference, setting a date for the first conference; it will be set approximately six months after the case is filed. The parties must file a Case Management Statement no later than fifteen days before the case management conference.

You can find more info on Case Management Statements on our website at Case Management Statement Guide (saclaw.org/cms-guide) and free video (saclaw.org/cms-video).

Limited civil cases

For limited cases (under \$25,000), status conferences are not required. When parties are ready for trial, they file a Limited Civil Case Status Memorandum (CV/E-202), a Sacramento County Superior Court local form requesting trial and letting the judge know how many hours the party expects the trial to take, and whether the party wants a jury. You can find more info and a sample form in our Limited Civil Case Memorandum guide (saclaw.org/limited-case-status-memo).

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Motions

When parties need a court order, they file a motion with the court (and serve it on the other party) by choosing a hearing date and presenting paperwork including a Notice of Motion, Motion, Memorandum of Points and Authorities, and Declaration(s). The other party then has the opportunity to write an Opposition. Typical motions request the judge to order one party to comply with discovery or deal with other pre-trial issues. These are called “law and motion” hearings. In Sacramento, they are held in Department 53 at 2 p.m. (odd numbered cases) or 54 at 9 a.m. (even numbered cases). For more information, instructions, and sample paperwork, see our guide, “Motions in Civil Cases” (saclaw.org/motions-general).

The Tentative Ruling Process

In Sacramento County, Case Management Orders and most types of motions are subject to the Tentative Ruling process. For these types of proceedings, **the judge makes a decision by 2 p.m. the court day before the scheduled hearing date**. Check online at www.saccourt.ca.gov. Unless one of the parties asks for oral argument by 4 p.m. that same day, the tentative ruling will become the final ruling automatically. If you would like the judge to hear oral arguments on the matter, you must notify the other party’s attorney (or the party, if self-represented), and the department clerk that you plan to appear no later than 4 p.m. the day before. If neither party gives this notice, **your hearing will be canceled** and the tentative ruling becomes final. For more information on the Tentative Ruling System in the Sacramento Superior Court, see www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx.

Trial Preparation

Most cases take a year or more to get to trial, if they don’t settle before then. If you get close to trial, you will need to gather evidence and prepare your presentation. For more information about this, you can use the book *Win Your Lawsuit* or one of our many practice guides. You can also view our free video, “[Trial Preparation for the Self Represented Litigant](#)” (saclaw.org/trial-prep-video) for information and tips.

FOR HELP

Sacramento County Public Law Library Civil Self Help Center

609 9th Street, Sacramento 95814

(916) 874-6012

saclaw.org/self-help/civil-self-help-center/

Services Provided: The Civil Self-Help Center provides assistance in completing all of these forms to Sacramento County residents and those with [qualifying](#) cases in the Sacramento County Superior Court. To receive an appointment, arrive at the Law Library by 8:30 a.m., Monday through Friday.

Plan your parking (and child care, if needed) so that you do not have to leave the Law Library during the lottery to feed the parking meter. The lottery is usually over by 9:00 a.m. [Directions](#) and [parking and transit information](#) are available at saclaw.org.

Eligibility: Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

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FOR MORE INFORMATION

At the Law Library:

Win Your Lawsuit [KFC 968 .Z9 D86](#) (Self Help) Chap. 10 Discovery, Chap. 12 Preparing for Trial
Electronic Access: From any computer (Library or home) via the Legal Information Reference Center.
Instructions are available on our website at saclaw.org/nolo-ebooks.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council forms commonly used in this procedure are:

- Answer-Contract (PLD-C-010) www.courts.ca.gov/documents/pldc010.pdf
- Request to Waive Court Fees (FW-001) www.courts.ca.gov/documents/fw001.pdf
- Order on Court Fee Waiver (FW-003) www.courts.ca.gov/documents/fw003.pdf
- Proof of Service by Mail (POS-030) www.courts.ca.gov/documents/pos030.pdf

Download the blank forms from these links or www.courts.ca.gov.

In addition, templates for the relevant non-Judicial Council forms may be downloaded from these links:

- Affirmative Defenses (Attachment 4) saclaw.org/Attach4.pdf
- Verification saclaw.org/verification.rtf

A sample filled-in Answer-Contract form with instructions is available at the end of this Guide.

Fee Waivers: for more information and sample forms, see our guide on Fee Waivers (saclaw.org/fee-waiver-guide.)

Proof of Service by Mail: for more information and sample forms, see our guide on “[Service by Mail](#)” (saclaw.org/mail-service).

PLD-C-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): Paul Sample 1234 Main Street Sacramento, CA 95814		TELEPHONE: 916-555-4678
ATTORNEY FOR (NAME): 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 Sacramento 720 Ninth Street Sacramento, CA 95814 Civil Division		
PLAINTIFF: Debt Recovery Services, Inc.		
DEFENDANT: Paul Sample		
ANSWER— <input checked="" type="checkbox"/> TO COMPLAINT OF (name): Debt Recovery Services, Inc. <input type="checkbox"/> TO CROSS-COMPLAINT (name):		CASE NUMBER: 34-2012-00012345

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

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 to the next question

1. This pleading, including attachments and exhibits, consists of the following number of pages: 6

2. DEFENDANT (name): Paul Sample answers the complaint or cross-complaint.

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

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.

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

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.

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 explain):
5, 7, 8

Continued on Attachment 3.b.(2).

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.

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

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Enter the party names. For individuals, you can list only the last names

Case number

SHORT TITLE: Debt Recovery Services, Inc. vs. Sample	CASE NUMBER: 34-2012-00012345
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PLD-C-010

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

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)