

SUPERIOR COURT OF STANISLAUS COUNTY
SELF HELP CENTER

**HOW TO FILE AN ANSWER
TO A CIVIL COMPLAINT FOR
PERSONAL INJURY, PROPERTY
DAMAGE OR WRONGFUL
DEATH ACTIONS**

(Revised 7/2013)

Material prepared and/or distributed by the Superior Court Clerk's Office IS INTENDED FOR INFORMATIONAL AND EDUCATIONAL PURPOSES ONLY. Such material is NOT intended to be and IT IS NOT LEGAL ADVICE as to your specific case. IT IS NOT INTENDED TO TAKE THE PLACE OF COMPETENT LEGAL ADVICE FROM AN ATTORNEY. You are strongly advised to seek the advice of a licensed attorney before starting or completing your case in order to protect valuable legal rights that you may have and of which you may be unaware. Please contact a competent attorney of your choice or contact the LAWYERS REFERENCE SERVICE of the Stanislaus County Bar Association at (209) 571-5727 for a referral. The Clerk's Office cannot give you legal advice.

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 Stanislaus 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 Stanislaus County Mediation Center at (209) 236-1577.**

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.**

FILING AN ANSWER TO THE COMPLAINT

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.

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.

FILING FEES

Unless you qualify for a fee waiver the following fees will be due at the time of filing:

- \$225 if the complaint is asking for monetary relief up to \$10,000
- \$370 if the complaint is asking for monetary relief over \$10,000 and up to \$35,000
- \$435 if the complaint is asking for monetary relief over \$35,000

COMPLETING THE ANSWER FORM

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)	PLD-PI-003 FOR COURT USE ONLY
YOUR NAME YOUR STREET ADDRESS YOUR CITY, STATE, AND ZIP CODE YOUR TELEPHONE NUMBER	
Write in "IN PRO PER"	
ATTORNEY FOR (NAME) Insert name of court, judicial district or branch court, if any, and post office and street address: Superior Court, County of Stanislaus 1100 I Street P.O. Box 1098 Modesto, CA 95353	WRITE IN THE NAME OF THE PLAINTIFF AS SHOWN ON THE SUMMONS AND COMPLAINT
PLAINTIFF:	WRITE IN THE NAMED DEFENDANTS AS SHOWN ON THE SUMMONS AND COMPLAINT
DEFENDANT:	
ANSWER—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> COMPLAINT OF DEFENDANT <input type="checkbox"/> 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, consists of the following: DEFENDANT OR CROSS-DEFENDANT (name):	WRITE IN YOUR NAME. IF THERE IS MORE THAN ONE 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.
2. <input type="checkbox"/> Generally denies each allegation of the unverified complaint or cross-complaint.	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 2 GENERALLY DENYING ALL STATEMENTS CONTAINED IN THE COMPLAINT. IF IT IS VERIFIED THEN YOU MUST RESPOND TO EACH PARAGRAPH INDIVIDUALLY BY CHECKING THE APPROPRIATE BOXES 3(a) THRU (g) AND LISTING THE PARAGRAPH NUMBERS.
3. a. <input type="checkbox"/> DENIES each allegation of the following numbered paragraphs:	
b. <input type="checkbox"/> ADMITS each allegation of the following numbered paragraphs:	IF YOU DENY ANY STATEMENT AS UNTRUE LIST THEM UNDER 3(a) or 3(f). FOR THOSE YOU DENY BASED ON YOUR INFORMATION OR BELIEF, LIST UNDER 3(c). FOR THOSE YOU DENY BECAUSE YOU LACK ENOUGH INFORMATION TO KNOW IF THEY ARE TRUE, LIST UNDER 3(d).
c. <input type="checkbox"/> DENIES, ON INFORMATION AND BELIEF, each allegation of the following numbered paragraphs:	IF THERE ARE ANY PARAGRAPHS YOU ADMIT AS TRUE, LIST THEM UNDER 3(b) OR 3(e).
d. <input type="checkbox"/> DENIES, BECAUSE OF LACK OF INFORMATION AND BELIEF, each allegation of the following numbered paragraphs:	
e. <input type="checkbox"/> ADMITS the following allegations and generally denies all other allegations:	

The next section of the form begins on page two and looks like this:

SHORT TITLE:	Last Name of Plaintiff vs. Last Name of Defendant	PLD-PI-003
		CASE NUMBER: <div style="border: 2px solid red; padding: 2px; text-align: center; font-weight: bold;">WRITE IN THE CASE NUMBER AS SHOWN ON THE SUMMONS</div>
ANSWER—Personal Injury, Property Damage, Wrongful Death		
f. <input type="checkbox"/> DENIES the following allegations and admits all other allegations:		
g. <input type="checkbox"/> Other (<i>specify</i>):		
	WRITE ANY OTHER DETAILS OR INFORMATION YOU WANT THE COURT TO TAKE INTO CONSIDERATION HERE.	
AFFIRMATIVELY ALLEGES AS A DEFENSE		
4. <input type="checkbox"/> The comparative fault of plaintiff or cross-complainant (<i>name</i>): as follows:		
	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 <u>LEGAL</u> 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.	
5. <input type="checkbox"/> The expiration of the		
	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 BOX "6" AND WRITE IN SEE ATTACHMENT 6.	
6. <input type="checkbox"/> Other (<i>specify</i>):		
7. DEFENDANT OR CROSS-DEFENDANT PRAYS For costs of suit and that plaintiff or cross-complainant take nothing. <input type="checkbox"/> Other (<i>specify</i>):		
<div style="border: 2px solid red; padding: 5px; display: inline-block;">PPRINT YOUR NAME</div> _____ (Type or print name)		<div style="border: 2px solid red; padding: 5px; display: inline-block;">SIGN YOUR NAME HERE</div> _____ (Signature of party or attorney)
<small>PLD-PI-003 [Rev. January 1, 2007]</small>		
ANSWER—Personal Injury, Property Damage, Wrongful Death		
<small>Page 2 of 2</small>		

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.

The server must then complete a Proof of Service by Mail as shown below:

POS-030	
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	
YOUR NAME HERE YOUR STREET ADDRESS HERE YOUR CITY, STATE, and ZIP CODE HERE	
TELEPHONE NO.:	FAX NO. (Optional):
E-MAIL ADDRESS (Optional):	
ATTORNEY FOR (Name):	IN PRO PER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Stanislaus	
STREET ADDRESS: 1100	COURT'S PHYSICAL ADDRESS HERE COURT'S MAILING ADDRESS HERE COURT'S CITY, STATE, and ZIP CODE HERE
MAILING ADDRESS: P.O.	
CITY AND ZIP CODE: Modesto, CA 95800	
BRANCH NAME:	
PETITIONER/PLAINTIFF:	FILL THIS OUT EXACTLY AS IT APPEARS ON YOUR OTHER DOCUMENTS
RESPONDENT/DEFENDANT:	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	
CASE NO.:	COURT CASE NUMBER HERE

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

- 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.
- My residence or business address is: **SERVER'S NAME
SERVER'S STREET ADDRESS
SERVER'S CITY, STATE, AND ZIP CODE**
- 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) (form POS-030(P)) are being served by this form. **CHECK THIS BOX**
- I served the documents by enclosing them in an envelope and (check one):
 - depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - 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.
- The envelope was addressed and mailed as follows:
 - Name of person served: **PLAINTIFF'S ATTORNEY'S NAME OR PLAINTIFF'S NAME IF NO ATTORNEY**
 - 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)

Form Approved for Optional Use
Judicial Council of California
POS-030 [New January 1, 2005]

PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL
(Proof of Service)

Code of Civil Procedure, §§ 1013, 1013a
Legal Solutions @ Plus

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.

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): ATTORNEY FOR (NAME): Insert name of court, judicial district or branch court, if any, and post office and street address: Stanislaus County Superior Court City Towers, 4th Floor 801 - 10th Street Modesto, CA 95354 Civil Division	TELEPHONE NO.:	FOR COURT USE ONLY
PLAINTIFF:		
DEFENDANT:		
ANSWER—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> COMPLAINT OF (name): <input type="checkbox"/> CROSS-COMPLAINT OF (name):		CASE NUMBER:

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

DEFENDANT OR CROSS-DEFENDANT (name):

2. Generally **denies** each allegation of the **unverified** complaint or cross-complaint.

3. a. DENIES each allegation of the following numbered paragraphs:

b. ADMITS each allegation of the following numbered paragraphs:

c. DENIES, ON INFORMATION AND BELIEF, each allegation of the following numbered paragraphs:

d. DENIES, BECAUSE OF LACK OF SUFFICIENT INFORMATION OR BELIEF TO ANSWER, each allegation of the following numbered paragraphs:

e. ADMITS the following allegations and generally denies all other allegations:

SHORT TITLE:	CASE NUMBER:
--------------	--------------

ANSWER—Personal Injury, Property Damage, Wrongful Death

f. DENIES the following allegations and admits all other allegations:

g. Other (*specify*):

AFFIRMATIVELY ALLEGES AS A DEFENSE

4. The comparative fault of plaintiff or cross-complainant (*name*):
as follows:

5. The expiration of the Statute of Limitations as follows:

6. Other (*specify*):

7. DEFENDANT OR CROSS-DEFENDANT PRAYS

For costs of suit and that plaintiff or cross-complainant take nothing.

Other (*specify*):

_____ (Type or print name)

_____ (Signature of party or attorney)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Stanislaus STREET ADDRESS: 801 - 10th Street, 4th Floor MAILING ADDRESS: 801 - 10th Street, 4th Floor CITY AND ZIP CODE: Modesto, CA 95354 BRANCH NAME: Civil Division	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER: _____

(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:
3. On (date): _____ I mailed from (city and state): _____
the following **documents** (specify):

The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).

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:
 - b. **Address** of person 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: _____

 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)



 (SIGNATURE OF PERSON COMPLETING THIS FORM)

INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

NOTE: This form should **not** be used for proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Use these instructions to complete the *Proof of Service by First-Class Mail—Civil* (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents:

(1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service—Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at www.courtinfo.ca.gov/forms.

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person for whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Complete items 1–5 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
4. For item 4:
 - Check box a if you personally put the documents in the regular U.S. mail.
 - Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (form POS-030(P)), and attach it to form POS-030.

At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.

Attachment 6 - AFFIRMATIVE DEFENSES

Check all boxes that apply to your case

- a. **Running of the Statute of Limitations.** The complaint was filed after the time period allowed in Code of Civil Procedure sections 312, *et seq.*
- b. **Failure to State a Cause of Action.** The complaint does not contain enough facts to state a cause of action against this defendant.
- c. **Plaintiff's Comparative Fault.** Plaintiff(s) or the person insured by plaintiff was at fault in how he/she/it conducted his/her/its affairs relative to the incident described in plaintiff's complaint. Such fault caused or contributed to the damages complained of in this case.
- d. **Failure to Mitigate Damages.** Plaintiff(s) or the person insured by plaintiff failed to take reasonable steps to minimize or prevent the damages plaintiff claims to have suffered.
- e. **Assumption of the Risk.** Plaintiff(s) or the person insured by plaintiff knew about the risk, and voluntarily undertook the risk that led to the accident or injuries complained of in this case.
- f. **Consent by Plaintiff.** Plaintiff(s) or the person insured by plaintiff agreed to, and participated in, those actions which plaintiff(s) claim to have caused injury or damage. Since such participation and consent were given knowingly and voluntarily, plaintiff's claims are invalid.
- g. **Comparative Fault of Third Parties.** People or entities other than this defendant caused or contributed to the damages plaintiff(s) claim to have suffered. Therefore any award made in favor of the plaintiff in this case must be reduced by an amount equal to the percentage of the fault of others in causing or contributing to the damages as alleged in the complaint.
- h. **Apportionment of Fault.** Defendants other than this defendant caused or contributed to the damages plaintiff(s) claim to have suffered. Therefore any award made in favor of the plaintiff(s) in this case must be divided between the defendants so that each pays only his, her or its fair share in relationship to his, her or its amount of fault.
- i. **Claim is Barred By Law.** This defendant believes, based on reliable information, that current law prohibits plaintiff's claims against this defendant.
- j. **Laches.** Plaintiff(s) or the person insured by plaintiff waited too long to file this law suit, making it difficult or impossible for defendant to find witnesses or evidence to defend the case.
- k. **Waiver.** Plaintiff(s) or the person insured by plaintiff either told, or led this defendant to believe, that plaintiff would not sue this defendant.
- l. **Estoppel.** Plaintiff(s) or the person insured by plaintiff acted in such a way as to cause this defendant to believe that plaintiff would not file suit, and defendant relied on those actions or representations.
- m. **Act of God.** The damages plaintiff(s) or the person insured by plaintiff claims to have suffered were caused by a natural occurrence, such as a storm.

Short Title:	Case No.
--------------	----------

- o. **Failure to Exhaust Administrative Remedies.** Plaintiff(s) or the person insured by plaintiff failed to file and pursue a claim with the responsible government agency before filing this lawsuit.
- p. **Intervening or Supervening Cause.** The damages the plaintiff(s) or the person insured by plaintiff claims to have suffered were caused or made worse by an event that occurred after the accident described in the complaint.
- q. **Superseding Cause.** The damages the plaintiff(s) or the person insured by plaintiff claims to have suffered were almost entirely caused by an event that occurred after the accident described in the complaint, thus this defendant is not responsible for plaintiff's claimed damages.

OTHER DEFENSES:

- _____

- _____

- _____

- _____

