

Invitation to Comment

Title	Civil Forms: General Denial (revise form PLD-050)
Summary	<p>The content of the <i>General Denial</i> (form PLD-050), which may be used to respond to most complaints in limited civil cases and to unverified complaints in unlimited civil cases, has not been updated since trial court unification. The revised form would delete an obsolete reference to municipal and justice courts and an outdated proof of service on the back of the form.</p>
Source	<p>Civil and Small Claims Advisory Committee Hon. Lee Smalley Edmon, Chair</p>
Staff	<p>Anne M. Ronan, Small Claims and Limited Case Subcommittee Counsel, 415-865-8933, anne.ronan@jud.ca.gov</p>
Discussion	<p>A general denial is permitted in a limited civil case, even when the complaint or cross-complaint is verified. (Code Civ. Proc., § 431.30(d); see also Code Civ. Proc., § 92(b) (answer in limited civil case need not be verified, even when the complaint is verified).) The current <i>General Denial</i> (form PLD-050) does not address this permissive filing of a general denial in terms of limited civil cases, but rather in terms of actions “subject to the economic litigation procedures of the municipal and justice courts.” This language is outdated and no longer applicable.</p> <p>Revised form PLD-050 would replace the obsolete reference to justice and municipal courts in the instructions at the top of the form. The proposed form states that the form may be used if “The complaint is verified, and the case is a limited civil case with the amount in controversy \$25,000 or less.” The revised form also adds Code of Civil Procedure sections 85 and 86 to the statutory references in the introductory statement. These statutes describe what actions are limited civil cases. The content of the form’s introductory section is otherwise unchanged.</p> <p>The other key changes to the form are the deletion of the proof of service that was on the back page of the form and revisions to the information box at the bottom of the first page.</p> <p>The proof of service on the back of the current form, for personal service or mail service, does not comply with Code of Civil Procedure sections 1013 and 1013a. The form does not provide any space or text for service by express mail, other overnight delivery, or fax</p>

transmission, and does not include the language required for proof of service by mail within an office or business establishment.

Rather than attempt to add to the current *General Denial* all the detailed provisions now required for the various methods of service, the revised form eliminates the proof of service altogether, and refers litigants, in the information box at the bottom of the form, to the Judicial Council proof of service forms: *Proof of Personal Service—Civil* (form POS-020), *Proof of Service by First Class Mail—Civil* (form POS-030), and *Proof of Service—Civil* (form POS-040) (covering service by person delivery, United States mail, overnight delivery, messenger service, fax transmission, and email). These standalone proof of service forms provide far more detail, more clearly, than could be fit on the back of the *General Denial* form.

The information box at the bottom of the proposed form also provides more detailed instructions concerning service and the filing of a proof of service, which instructions were previously found at the top of the back of the form.

In addition, a minor revision has been made to the first sentence in the information box. It now informs the litigant that failure to bring a cross-complaint may cause the litigant to “lose your right to bring the claim.” (Added text is underlined.) This change is a more accurate expression of the results of failing to bring a mandatory cross-complaint.

Other minor changes made to the form are that the attorney/party information box (top left box), the county and court address box (second left box), and the box for the parties’ names have been revised to conform to current Judicial Council form standards. This includes providing spaces for an e-mail address and a fax number.

Attachment

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY DRAFT v.4 03/15/08 not approved by Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
GENERAL DENIAL	CASE NUMBER::

You **MUST** use this form for your general denial if the amount asked for in the complaint or the value of the property involved is \$1,000 or less.

You **MAY** use this form if:

- 1. The complaint is not verified, **or**
- 2. The complaint is verified, and the case is a limited civil case with the amount in controversy \$25,000 or less.

EXCEPT

You **MAY NOT** use this form if the complaint is verified and involves a claim for more than \$1,000 that has been assigned to a third party for collection.

(See Code of Civil Procedure sections 85-86, 90-100, 431.30, and 431.40.)

- 1. DEFENDANT *(name)* generally denies each and every allegation of plaintiff's complaint.
- 2. DEFENDANT states the following **FACTS** as separate affirmative defenses to plaintiff's complaint *(attach additional pages if necessary):*

Date:



(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

If you have a claim for damages or other relief against the plaintiff, the law may require you to state your claim in a special pleading called a cross-complaint or you may lose your right to bring the claim. (See Code of Civil Procedure sections 426.10–426.40.)

The original of this *General Denial* must be filed with the clerk of this court with proof that a copy was served on each plaintiff's attorney and on each plaintiff not represented by an attorney. There are two main ways to serve this *General Denial*: by personal delivery or by mail. It may be served by anyone at least 18 years of age EXCEPT you or any other party to this legal action. Be sure whoever serves the *General Denial* fills out and signs a proof of service. You may use the applicable Judicial Council form (such as form POS-020, POS-030, or POS-040) for the proof of service.

Item SPR08-20 Response Form

Title: Civil Form: General Denial (revise form PLD-050)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*