

**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**

**(THIS GUIDE ONLY APPLIES TO LAWSUITS
INVOLVING \$25,000.00 OR LESS)**

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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.

FORMS AND FILING FEES

You can get the Answer forms from the Court Clerk's office, located at 1100 I Street, Modesto, CA or the Self-Help Center located at 800 – 11th Street, Room 220 of the Courthouse. You can also get them online at www.courtinfo.ca.gov/forms.

There is a filing fee due at the time of filing the Answer. If the lawsuit is requesting a judgment for \$10,000.00 or less the filing fee is \$180.00. If the lawsuit is requesting a judgment for over \$10,000.00, the filing fee is \$300.00. This fee is due from each person named as a defendant who is filing an answer.

If your income is below a certain level, you may qualify for a waiver of the filing fees. You can get a fee waiver application packet from the Court Clerk's office or the Self-Help Center.

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)		YOUR NAME YOUR STREET ADDRESS YOUR CITY, STATE, AND ZIP CODE YOUR TELEPHONE NUMBER	PLD-PI-003 FOR COURT USE ONLY
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:		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
ANSWER—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> COMPLAINT OF DEFENDANT <input type="checkbox"/> CROSS-COMPLAINT			

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.	
3. a. <input type="checkbox"/> DENIES each allegation of the following numbered paragraphs:	FIRST 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.
b. <input type="checkbox"/> ADMITS each allegation.	
c. <input type="checkbox"/> DENIES, ON INFORMATION AND BELIEF, 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).
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:	IF THERE ARE ANY PARAGRAPHS YOU ADMIT AS TRUE, LIST THEM UNDER 3(a) OR 3(e).

Form Approved for Optional Use
Judicial Council of California

ANSWER—Personal Injury, Property Damage, Wrongful Death

Page 1 of 2
Code of Civil Procedure, § 425.12

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

CASE NUMBER:

WRITE IN THE CASE NUMBER AS SHOWN ON THE SUMMONS

ANSWER—Personal Injury, Property Damage, Wrongful Death

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

g. Other (specify):

WRITE ANY OTHER DETAILS OR INFORMATION YOU WANT THE COURT TO TAKE INTO CONSIDERATION HERE.

AFFIRMATIVELY ALLEGES AS A DEFENSE

4. The comparative fault of plaintiff or cross-complainant (name):
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 LEGAL 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. 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. Other (specify):

7. DEFENDANT OR CROSS-DEFENDANT PRAYS

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

Other (specify):

PPRINT YOUR NAME

(Type or print name)

SIGN YOUR NAME HERE

(Signature of party or attorney)

AFFIRMATIVE DEFENSES (MOTOR VEHICLE) – ATTACHMENT 6

- 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 or the driver insured by plaintiff was at fault in driving or maintaining the vehicle, or in giving permission to someone else to drive it. Such fault caused or contributed to the accident complained of in this case.
- d. **Failure to Mitigate Damages.** Plaintiff or the driver 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 or the driver 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 or the driver insured by plaintiff agreed to, and participated in, those actions which plaintiff claims 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 claims 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 claims to have suffered. Therefore any award made in favor of the plaintiff 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.

Short Title	Case Number
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Page: _____

AFFIRMATIVE DEFENSES (MOTOR VEHICLE) – ATTACHMENT 6

- i. **Claim is Barred By Law.** This defendant believes, based on reliable information, that current law prohibits plaintiff’s claims against this defendant because plaintiff, or the person to whom plaintiff gave permission to drive the car, was not insured at the time of the accident or some other law preventing recovery by plaintiff.
- j. **Laches.** Plaintiff or the driver 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 or the driver insured by plaintiff either told, or led this defendant to believe, that plaintiff would not sue this defendant.
- l. **Estoppel.** Plaintiff or the driver 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 or the driver insured by plaintiff claims to have suffered were caused by a natural occurrence, such as a storm.
- o. **Failure to Exhaust Administrative Remedies.** Plaintiff or the driver 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 or the driver 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 or the driver 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.
- r. Other: _____

Short Title	Case Number
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Page: _____

AFFIRMATIVE DEFENSES (NEGLIGENCE) – ATTACHMENT 6

- 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.

Short Title	Case Number
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Page: _____

AFFIRMATIVE DEFENSES (NEGLIGENCE) – ATTACHMENT 6

- 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.
- 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.
- r. Other: _____
