

**Superior Court, County of
Ventura
Self-Help Legal Access Center**

**DEFENDING LAWSUITS
FOR
BREACH OF CONTRACT
OR
COLLECTION OF MONEY
(COMMON COUNT)**

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*Deciding How to Respond to the
Complaint*

Answering, settling or defaulting

A lawsuit for money based on a contract, loan or agreement is a **civil action**. A civil action arises out of an obligation or an injury. (See Code of Civil Procedure Section 25). 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. To see if you have a legal defense, read the packet **Legal Reasons Why I Should Not Have to Pay the Money**.

2. You can choose not to defend yourself and allow the plaintiff to get a **default** judgment against you. A **default** means that you fail to answer the complaint in the time required by law. If you allow default to be 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. If you reach an agreement BE CAREFUL to confirm the agreement in writing, and if the plaintiff agrees to dismiss the lawsuit, make sure it is actually dismissed before the time is up for you to file your answer. Otherwise, default may still be entered against you. You can check to make sure the case is **dismissed** by calling the court at (805) 662-6620 and follow the instructions to speak with a civil clerk. For cases filed in Simi Valley call (805) 582-8086. You will need to give the case number to the clerk.

Before you decide how to proceed, read the following “Initial Steps.” If you decide to file an answer to the lawsuit, go to the book 2, “Completing the Answer.”

INITIAL STEPS

Review the Summons

One of the papers you were served with is called the **Summons**. If you choose to respond to the summons and complaint you must do so within **30 days** of the date you are personally served.

To respond you must file a formal paper with the court. That 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 plaintiff's attorney, can give you extra time (called an **extension**). If you are given an extension, you should confirm it in writing with the plaintiff or plaintiff's attorney and keep a copy of the confirming letter.

Review the Complaint

The complaint tells you what the lawsuit is about. Usually when you get to the end of the complaint you will find the plaintiff "praying for" certain relief. The "**prayer**" is a summary of what the plaintiff is asking for; most often it is for a sum of money.

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 papers.

ADDITIONAL INFORMATION FOR FILING AN ANSWER:

1. Counting the Time to File Your Answer:

You have **30** days to file your answer in court after you receive a copy of the lawsuit filed against you. 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 your answer on Monday.

2. Where to get the Answer Forms

You can get the Answer forms from the court clerk's office or from one of the Self-Help Legal Access ("SHLA") Centers. Forms are 10 cents a page plus tax.

3. What does it Cost to File an Answer?

It costs \$91.00 for each person named as a **defendant** to file an answer. If your income is below a certain level, you can apply for a **waiver** of the filing fee. You can get a **fee waiver application** packet from the court clerk's office or from the SHLA Center. The fee waiver application is free.

WARNING:

THE VENTURA COURTS SELF-HELP LEGAL ACCESS CENTER IS NOT REPRESENTING YOU, OR TELLING YOU WHICH CHOICE TO MAKE. IT HAS ONLY ASSISTED YOU IN REPRESENTING YOURSELF BY

PROVIDING LIMITED INFORMATION ABOUT YOUR OPTIONS. NO ATTORNEY FROM THE CENTER WILL APPEAR IN COURT TO REPRESENT YOU AT TRIAL OR ANY OTHER HEARING. YOU ARE REPRESENTING YOURSELF. THE CENTER STRONGLY RECOMMENDS THAT YOU SEEK THE ADVICE OF AN ATTORNEY IN THIS MATTER IF YOU CAN. IF YOU DESIRE FURTHER REFERRAL INFORMATION REGARDING SECURING AN ATTORNEY, YOU MAY CALL THE LAWYER REFERRAL SERVICE OF THE VENTURA COUNTY BAR ASSOCIATION AT (805) 650-7599.