

## Research Guide: Responding to a Lawsuit

# Law Library for San Bernardino County

Research Guide, [www.sblawlibrary.org](http://www.sblawlibrary.org) (909) 885-3020

As adapted from the Sacramento County Public Law Library Research Guide for How to Respond to a Credit Card Case (<http://www.saclaw.org/pages/everyday-law.aspx>) (916) 874-6012.

### Disclaimer

The information in this research guide is intended to assist patrons with their legal research and is in no way intended to replace the counsel of an Attorney. Any decisions about how to proceed must be determined by the patron. The library staff can recommend and refer you to online and print resources that will help you find answers to your law-related questions. The staff at the Law Library for San Bernardino County cannot explain or interpret the law itself and we are not permitted to give legal advice.

### How to Respond to a Credit Card Case

Are you one of the [34 million Americans](#) who have been making late credit card payments? Among the [18 million](#) who have missed payments entirely? Is a credit card company or collection agency suing you over a credit card debt?

If you have received a summons and a complaint from a credit card company or collection agency, the law typically requires you to respond within 30 days ([California Code of Civil Procedure § 412.20\(a\) \(3\)](#)). An "[Answer](#)" is your opportunity to admit or deny the specific allegations brought against you in the complaint. Any statements in the complaint that are not denied will be taken as true for the purposes of that case ([California Code of Civil Procedure § 431.30\(b\)\(1\)](#)). If you have certain "[affirmative defenses](#)" to the company's claim, such as the [statute of limitations](#) has run (the credit card company has four years from the date the written contract is broken to sue you for the debt), or "[discharge by bankruptcy](#)," you must state these defenses in your Answer, or you may be prohibited from raising them later ([California Code of Civil Procedure § 337](#)). In addition, you are required to "[serve](#)" the Answer on the credit card company or collection agency, complete a "[Proof of Service](#)," and file both with the proper Court.

Scary? Confusing? It is to most people. In order to assist you, the San Bernardino County Law Library provides the following resources:

The Judicial Council of California has published a guide on a responding to breach of contract lawsuit.

<http://www.courtinfo.ca.gov/programs/equalaccess/documents/regional08/breach.pdf>.

This guide may help you decide if PLD 010 is the answer you should use to respond to your lawsuit.

We also have a Nolo Press Title Called *Win Your Lawsuit*. This book deals mostly with Limited Civil Cases and some unlimited civil cases. It will provide forms and instructions.

The *California Forms of Pleading and Practice* by Matthew Bender covers the topic of answers and provides various pleading forms and instructions.

Responding to a lawsuit is the first step in defending your case, and preventing a [default judgment](#) against you. A default judgment, like any other judgment, could result in the [garnishing](#) of your paycheck, the placement of a [lien](#) on your house or car, or the [levying your bank accounts](#).

In some instances, your response does not have to be an Answer. You may wish to consider an additional or another form of response; for example, a "[Motion for Change of Venue](#)," if the credit card company filed in the wrong court; a "[Motion to Quash Service of Summons](#)," if you were served improperly; or a "[Demurrer](#)" or "[Motion to Strike](#)," if there are legal defects in the complaint. If you have a claim that arises out of the same transaction, occurrence, or series of events as the credit card company or collection agency's suit, you must file a "[Cross-Complaint](#)" with your Answer, or else give up the claim forever.

If the complaint is not verified, that is, if the attorney or other representative of the credit card company or collection agency has not declared under penalty of perjury that everything is true and correct at the end of the complaint, you may "generally deny" all allegations in the Complaint in your Answer, or you may use a very simple form of response called a "[General Denial](#)," or PLD 050 located at <http://courtainfo.ca.gov/forms/>, which allows you to deny every allegation in the complaint with one sentence. In most instances, you may not generally deny a verified complaint.

For full explanations of all your responsive options, you will need to visit San Bernardino County Law Library to do more in-depth research. The Santa Clara Superior Court, however, provides some basic information on your options at <http://www.scselselfservice.org/civ/general/defendant.htm>.

You should address the complaint immediately, since it may take time to research and prepare your response. Failure to respond within 30 days (if the 30<sup>th</sup> day falls on a weekend or court holiday, you have until the close of the next business day to file your response, [California Rules of Court 1.110](#)) may result in a default being entered against you. If a default is entered due to your failure to file a response on time, you will not be able to defend the case unless you get the [default set aside](#). You may have to bring a Motion, which is much more complicated than an Answer, and that Motion may not be granted by the court. Therefore, it is important that you not wait until the last minute to respond to a complaint.

If you want to file a standard Answer or a General Denial, you may be able to use a fill-in-the-blanks form. The Judicial Council of California has created forms to answer the most common types of breach of contract cases. These forms are available online in a fillable format:

Answer-Contract (Form PLD-C-010)

<http://www.courtinfo.ca.gov/forms/documents/pldc010.pdf>

General Denial (Form PLD-050)

<http://www.courtinfo.ca.gov/forms/documents/pld050.pdf>

These forms are available on the internet at <http://www.courtinfo.ca.gov/forms/> or may be photocopied from a book in the Library.

If these forms do not fit your needs, you may need to type up your own Answer on [pleading paper](#). You can find samples of other types of Answers at the Law Library. A very good book, "[Win Your Lawsuit: A Judges Guide to Representing Yourself in California](#)," is put out by [Nolo](#) Press, a publisher of "plain-English" self-help legal books. The book has a chapter devoted to lawsuits from the defendant's point of view. This chapter describes your options for responses and gives guidance for completing the forms. As mentioned previously "Win Your Lawsuit" is available at the San Bernardino County Law Library, many large public libraries, and it is for sale in most large bookstores and directly from the publisher at [www.nolo.com](http://www.nolo.com).

*Thanks to Kelly Brown from the Sacramento County Law Library for creating this guide and allowing us to adapt it for our library. October 2009.*

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## **Links for "Responding to a Credit Card Case"**

Findlaw's California Code of Civil Procedure

<http://codes.lp.findlaw.com/cacode/CCP/>

or <http://leginfo.ca.gov/calaw.html>

Santa Clara County Superior Court's Self-Service Center

<http://www.scsselfservice.org/civ/general/defendant.htm>

Judicial Council's Official Court Forms

<http://www.courtinfo.ca.gov/forms/>

Breach of Contract Research Guide

<http://www.courtinfo.ca.gov/programs/equalaccess/documents/regional08/breach.pdf>.

Terms used in Guide can be looked up by using a Black's Law Dictionary in the library or by using Nolo's plain law dictionary at <http://www.nolo.com/dictionary/>.