

# Did You Get Sued and Are Thinking About Filing an Answer with the Court?

If you have been sued in civil court, there are several things you might want to think about before you file a legal response called an "Answer." An Answer is the legal form you file with the court Clerk's Office to give your side of the story in the lawsuit.

## **If you do file an Answer,**

you must attend all mandatory court hearing dates, file all required papers with the court before the scheduled hearing dates, and respond to *discovery* requests served on you by the other side. *Discovery* includes *interrogatories* (questions in written form requiring you to respond in written form), *demand to produce documents* (requiring a written response as to each category of documents, and providing copies of the documents to the other side), *request for admissions* (requiring a written response as to whether you admit or deny each request for admission) and *depositions* (requiring you, or other potential witnesses, to be interviewed under oath and have your answers transcribed into a booklet). If your case goes to trial and you win, you will not owe money, and can ask the court to order the other side to reimburse certain types of costs. If you lose the trial, the opposing party can get a judgment for money and costs of suit, and try to enforce the judgment by garnishing wages from your job, levying on your bank account, or placing a lien on your house.

## **If you do not file an Answer,**

the other side can get a default judgment against you. This means that the other side automatically wins the case. After they win, they can try to collect money from your job or bank account or put a lien on your house.

## **THINGS TO THINK ABOUT BEFORE YOU FILE AN ANSWER:**

### **1. Do you owe the money?**

- If you feel you *do not* owe the money claimed in the Complaint, then filing an Answer is how you let the Court know *why* you think you do not owe the money.
- If you *do* owe the money, filing an Answer does not change the fact that you owe the money.

If you lose the case, you will likely have to pay the other side's court costs and may have to pay the other side's attorney fees as well.

## **2. Has it been a long time since you paid any money toward the debt (Breach of Contract lawsuits)?**

- If you have not paid any money toward the debt in the last four years, you may no longer owe the money. This is because of a defense called the “Statute of Limitations.” If this is true, you may want to file an Answer to let the Court know that it has been four years or longer.

## **3. Can you take time off of work to go to court?**

- If you file an Answer, you will generally have to go to court *at least* two times before the case is over.
- If you do not file an Answer, you do not need to go to court to contest the case, but you may need to go to court later on to ask the court to allow you to make payments on the judgment, or ask for limitations on the amount of money that can be taken from your paycheck or from your bank account.

## **4. Are you low income?**

- If you have very low income, you might be able to get your filing fee waived.
- If your income is not low enough to qualify for a fee waiver, you will have to pay between \$180 to \$330 to file your legal response.

## **5. Check the interest rates (breach of contract cases)**

- If you *do* file an Answer, in a breach of contract case you may be charged the interest rate in your contract until your final court date (which could be a year away).
- If you *do not* file an Answer and the other party wins the case by default, the interest rate will be 10% per year on the date that a judgment is entered against you.

## **6. If you file an Answer, you may have to fill out legal papers called “discovery.”**

- If you file an Answer, the other side can send you papers called discovery requests. These are legal papers that can require you to answer a lot of detailed questions about your case and give the other side copies of documents related to your case.
- If you do not file an Answer you will not have to respond to discovery requests. An exception is if you lose and the other party tries to collect the money from you (if there is a judgment for money). In that case you may have to respond to discovery related to your assets.

## **7. Do you think that the lawsuit wasn’t served on you correctly or that there are other legal problems with the papers?**

- There are other forms of responses besides an Answer. These are generally in the form of motions that attack the complaint, such as a *demurrer* or a *motion to strike* or a *motion for judgment on the pleadings*. These motions must be self-

drafted, and usually require the legal skill of an attorney. Talk to a private attorney about these options.

**8. If you believe the other side owes you more money than you are being sued for, and you want the court to order the other side to pay you, you will need to file a Cross-complaint at the same time you file your Answer.**

- There are Judicial Council forms that you can use for cross-complaints based on breach of contract. If you do not file a cross-complaint with your answer, you may be found to have *waived* your claim against the other side.

IT IS STRONGLY RECOMMENDED THAT YOU SEEK THE ADVICE OF A PRIVATE ATTORNEY REGARDING YOUR OPTIONS IF YOU CAN. ONLY A PRIVATE ATTORNEY CAN GIVE YOU LEGAL ADVICE REGARDING WHAT IS BEST FOR YOU TO DO WHEN YOU ARE SUED. YOU MAY CALL THE LAWYER REFERRAL SERVICE OF THE VENTURA COUNTY BAR ASSOCIATION AT (805) 650-7599. YOU CAN GET A HALF HOUR OF LEGAL ADVICE FOR A \$35 FEE. THOSE WHO MEET THE LOW INCOME REQUIREMENTS FOR A FEE WAIVER MAY QUALIFY FOR A FREE LEGAL CONSULTATION THROUGH THE VENTURA COUNTY BAR ASSOCIATION'S VOLUNTEER LAWYER SERVICES PROGRAM.