

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE BRANCH NAME:	<i>FOR COURT USE ONLY</i>
PLAINTIFF: DEFENDANT:	
ORDER REJECTING APPLICATION FOR DEFAULT JUDGMENT	CASE NUMBER: DEPARTMENT #:

NOTICE: The Court is REJECTING your request for entry of default judgment for the following reasons:

1. No default has been entered against the defendant (s) against whom you are seeking a default judgment.
2. You did not provide evidence that you served a statement of damages **before** the default was entered. A statement of damages must be served before entry of default in wrongful death and personal injury cases and in any case where punitive damages are being pursued. The statement of damages must be served in the same manner as the summons and complaint. The default is void absent a properly served statement of damages. (*Hamm v. Elkin* (1987)196 Cal.App.3d 1343; Code of Civ. Proc. 425.11.)

If you have properly served a statement of damages, please file the statement of damages and proof of service of the statement of damages. (See Judicial Council Form CIV-050.)

If you have not yet served a statement of damages in cases where required (personal injury, punitive damages), **your default is void**. You must serve the statement of damages and file another request for entry of default.

3. **Your complaint does not specify the amount of damages or other remedies you seek, and the complaint is not based on personal injury, wrongful death, or seek punitive damages. You must file an amended complaint to specify your damages, properly serve summons and complaint again, and after waiting the required period, file another Request for Entry of Default. You cannot correct this defect by serving a statement of damages.**
4. You did not submit a completed Request for Entry of Court Judgment (Judicial Council Form CIV-100). **Please file and serve the Request for Entry of Court Judgment.**
5. On your Request for Entry of Court Judgment, please be sure to check the box "Court Judgment." Also:
 - a. Fill in the amount of judgment sought. (2 a-g of form CIV-100)
 - b. The damages sought in 2.a. and 2.b. cannot exceed the amount stated in the complaint and/or statement of damages.
 - c. The interest sought may not exceed the amount stated in the complaint.
 - d. If seeking attorney's fees, fill in the amount sought.
 - e. Credits or payments are required to be shown under credits acknowledged.
 - f. Enter the details of the costs you are claiming both under 2.d. and paragraph 7.

CASE NAME:

CASE NUMBER:

6. You did not comply with California Rule of Court 3.1800. **Please file and serve all of the following.**
- a. You did not submit a brief summary of the case identifying the parties and nature of plaintiff's claims. 3.1800 (a) (1)
 - b. You did not submit declarations or other admissible evidence in support of the judgment requested. 3.1800 (a) (2)
 - c. You did not submit interest calculations. 3.1800 (a) (3). You must submit a declaration detailing how you calculated interest.
 - d. You did not submit a memorandum of costs and disbursements. 3.1800 (a) (4)
 - e. You did not check the affidavit of military service. Form Civ-100 3.1800 (a) (5)
 - f. You did not submit a proposed form of judgment. 3.1800 (a) (6)
 - g. You did not dismiss the parties against whom you are not seeking judgment. **Doe defendants must also be dismissed.** If you are seeking a separate judgment against specified parties under Code of Civil Procedure 579 (judgment against one, trial against others) submit an application supported by a showing of grounds for each judgment. 3.1800 (a) (8).
 - h. You did not submit any exhibits to support your claims. 3.1800 (a) (8)
 - i. You did not submit any authority or evidence to support your claim for attorney fees.
 - j. You failed to follow the Court's schedule of reasonable attorney fees. (Civil Local Form CV-5021.) A claim for a fee in excess of the schedule must be made by application and counsel must address the 8 factors set forth in Local Form CV-5021.
7. The complaint does not state a valid cause of action.
8. A non-defaulting co-defendant has raised a defense that would absolve the defaulting defendant. You must obtain a judgment against the non-defaulting defendant before proceeding to seek default judgment.
9. The type or amount of damages sought exceed the limitations established in the complaint.
10. The declaration submitted does not show the declarant has personal knowledge.
11. If you are relying on the business records exception to prove the amount owed, you must attach the relevant documents to a declaration from the appropriate custodian of records.
12. The evidence does not support the amount or type of relief requested in the judgment.
13. You did not calculate the interest or court costs correctly.
14. There is insufficient proof of a contractual or statutory basis for attorney's fees
15. The Court requires live testimony in this action. Apply for a "prove-up" hearing date. File all required documentation **at least 10 days before the hearing date.**

CASE NAME:	CASE NUMBER:
------------	--------------

16. Special Actions Involving Motor Vehicles

- a. You are seeking a deficiency judgment but you did not submit proof that the "Notice of Intent to Sell" complied with Civil Code Section 2983.2 and that the sale was conducted in a commercially reasonable manner.
- b. Except in lease cases, it is inappropriate for the judgment to award both contract damages and possession of the vehicle.
- c. Claims for excess depreciation require proof that the car was sold in compliance with Civil Code 2989.2.

Please submit all of the missing information.

17. Special Actions involving Subrogation Claims

- a. There is insufficient proof of the defendant's liability for the accident. You must submit a declaration of a person with personal knowledge of the accident.

18. Special Actions Involving Bad Check Cases

- a. You must submit the original checks and a copy of the notice required by Civil Code 1719 that was sent to the defendant. In cases involving stop payment, a copy of the certified mail receipt is required. **Please submit the missing information.**

19. Special Actions Involving Credit/Auto/Retail Installment

- a. Your lawsuit is based on either a retail installment contract subject to the Unruh Act, or a financed auto subject to Rees-Levering, or on a loan or extension of credit for personal or household use. Accordingly, the complaint must be verified and show that venue is proper. Your complaint is not verified and/or does not show that venue is proper. You must amend your complaint to correct these defects, and properly serve summons and complaint again, and wait the appropriate time period before seeking another default.
- b. You did not submit the credit card statement and application or other documentation evidencing the debtor's agreement to the debt. **Please submit the missing information.**

20. Special Actions Involving an Assigned Debt: Fair Debt Buying Practices Act (Civ. Code 1788.50 et seq.)

- a. You are a debt buyer as defined in the Civil Code. Your complaint does not include all allegations required by Civil Code 1788.58. (See Judicial Form CIV-105, section 4.) **You must amend your complaint to correct these defects, serve summons again on the amended complaint, and wait the appropriate time period before seeking another default.**
- b. You did not submit the completed Mandatory Judicial Council Form CIV-105 form for Request for Entry of Default for cases governed by the Fair Debt Buying Practices Act. **Please file and serve the Request for Entry of Default Judgment using the proper form.**
- c. You have not submitted the documentation required by Civil Code section 1788.60 for entry of default judgment (to include evidence sufficient to prove the facts required by Civil Code 1788.58). (See Judicial Form CIV-105, section 5.) **Please submit the missing information.**

CASE NAME:	CASE NUMBER:
------------	--------------

21. Quiet Title Actions (CCP 760.010 et seq.)

- a. A verified complaint is required in a Quiet Title Action and your complaint is not verified. You must amend and properly serve summons and complaint again.
- b. No lis pendens has been filed.
- c. You did not submit a title report. **Please submit the missing information.**
- d. The Court requires live testimony in all quiet title actions. You must apply for a “prove up” hearing. File all required documentation **at least 10 days before the hearing date. You must give adequate notice of the default prove-up hearing to all defaulting defendant(s).**

22. Other Comments:

Date:

Judicial Officer