

NOTICE OF AUTOMATIC STAY

Halting a Lawsuit after Filing for Bankruptcy

This Guide includes instructions and sample forms. The Guide and related forms may be downloaded from:

www.saclaw.org/notice-auto-stay

BACKGROUND

Filing for bankruptcy immediately stops all attempts to collect debts included in the bankruptcy from you, including lawsuits. This is known as the “automatic stay.”

Perhaps you have been sued, and are planning to file for bankruptcy. Or maybe you are already in bankruptcy, and you have received a summons and complaint. Either way, you need to let the plaintiff and the Superior Court know about the bankruptcy so the state case is put on hold. The federal court trumps the state court, but the only way the state court will know about the bankruptcy and stay is if you file a [Notice of Stay of Proceedings](#) (CM-180). This guide explains the process and contains a sample of the *Notice of Stay of Proceedings* (CM-180) and accompanying [Proof of Service](#) (POS-030).

You will need a copy of the first page of your Petition for Bankruptcy, stamped by the court and showing your case number. Using the information from your bankruptcy case, fill out the *Notice of Stay of Proceedings* (CM-180), attach the copy of the Petition for Bankruptcy (first page), and file and serve it in the state court case. If you have not yet responded to the state court case, you may want to file an Answer along with this notice to protect yourself in case the bankruptcy is dismissed.

STEP-BY-STEP INSTRUCTIONS

Step 1: Complete the Required Forms

The Judicial Council forms commonly used in this procedure are

- [Notice of Stay of Proceedings](#) (CM-180)
- [Proof of Service](#) (POS-030)

You will also need a copy of your filed Petition for Bankruptcy (first page), showing the date you filed and the bankruptcy case number.

Sample filled-in forms with instructions are available at the end of this Guide.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

More like this...

Related Step by Step Guides

- [Responding to a Lawsuit](#)
- [Answer: Contract](#)

Common Questions

- [Bankruptcy Basics](#)

Find all this information on our website at www.saclaw.org.

>>[Home](#) >>[Law 101](#)

Step 2: Prepare Response to State Lawsuit, If Needed

If you have not already filed a response (such as an answer) in the state lawsuit, prepare a response. Contact the Law Library or an attorney for more information about this step.

If you are a Sacramento County resident, or have a [qualifying](#) case in the Sacramento County Superior Court, our Civil Self-Help Center may be able to assist you with preparing the response. For more information, see our [Civil Self-Help Center page](#).

Step 3: Make Copies

Make four (4) copies of your *Notice of Automatic Stay* (CM-110) and the file-stamped copy of your Petition for Bankruptcy (first page). One of these copies is to be served on the other side's attorney (or the other party, if the other side does not have an attorney); the original and the other three copies are to be filed with the court. Staple each of the copies, but leave the original unstapled. Sacramento County Superior Court uses an electronic filing system in which documents are scanned in electronically. Stapled originals are not accepted because the staple will jam in the scanner, damaging both the document and the scanner.

If you are filing an Answer or other response, make four (4) copies of that as well, in the same manner.

Step 4: Have Your Documents Served

The person who is serving your Notice of Automatic Stay for you must complete a proof of service form, typically, either a *Proof of Personal Service* (POS-020) or a *Proof of Service by First Class Mail* (POS-030). For more information on these proofs of service, see our Guides on [Personal Service](#) and [Service by Mail](#).

The Proof of Service form should be completely filled out, but not signed. **Make a copy of the unsigned Proof of Service form before proceeding.**

The server must then personally deliver or mail a copy of the Notice and Petition along with a copy of the unsigned Proof of Service on the opposing attorney or self-represented litigant. The unsigned Proof of Service form can be included as the last page of the packet.

The person doing the serving then signs the Proof of Service form, and gives the signed Proof of Service to you.

If you are filing an Answer, have them deliver or mail it as well, and fill out a separate Proof of Service for it.

Step 4: File Your Documents

The Notice of Automatic Stay documents are filed in the drop box in Room 100 in the Sacramento Superior Court at 720 Ninth Street. Fill out and attach the [Civil Document Drop-Off Sheet](#), and date stamp the back of the original packet. A supply of *Civil Document Drop-Off Sheets*, [Credit Card Authorization Forms](#), and a date stamp are located near the drop box. Following the instructions posted at the drop box, place the unstapled original document packet plus three copies of the packet in the drop box, along with a check or *Credit Card Authorization Form* for the filing fee, if any. Provide

>>[Home](#) >>[Law 101](#)

the court with a self-addressed stamped envelope with sufficient postage to facilitate the return of your documents to you.

The remaining copies of the packet, if any, are for the filing party's records. The court will process the paperwork, and return two copies, stamped "Endorsed/Filed," to the filing party. The court will retain the original papers for its file.

Put the original signed *Proof of Service* (POS-030) with your original signed set of papers.

If you are filing an Answer at the same time, file the Answer and its Proof of Service in the same manner.

Fees: If the *Notice of Automatic Stay* is the first paper you have filed in this case, or if you are filing an Answer along with the *Notice*, there will be a fee, currently ranging from \$225-\$435. Current fees can be found on the [Sacramento County Court Fee Schedule](#).

FOR HELP

For help with bankruptcy:

Bankruptcy Pro Se Assistance Desk

Federal Courthouse, 501 I Street, 3rd Floor, Room 3-210

Fridays, 9:00 a.m. to 12:00 p.m.

Services provided: A volunteer attorney can help select bankruptcy forms, explain your rights and duties during bankruptcy, and answer questions about procedures.

Debt Collection Defense and Bankruptcy Clinic (VLSP)

517 12th Street

916-551-2102 www.vlsp.org/debt.asp

Services provided: The Voluntary Legal Services Program of Northern California is a nonprofit agency that provides free civil legal assistance to low-income people in Sacramento and surrounding counties. Services include assistance with bankruptcy and other legal problems associated with collection of debts.

Community Legal Services - McGeorge School of Law – Bankruptcy Clinic

916-340-6080

Services provided: Low-income clients are provided legal representation in Chapter 7 proceedings; dischargeability proceedings; and legal advice regarding debt collection issues. Intake is open only during certain times of the year, generally the first two weeks of January and July.

You May Qualify for a Fee Waiver

If you are low income or receive government benefits, you may qualify for a fee waiver. See our Fee Waiver guide for more information:

- [Fee Waivers](#)

>>[Home](#) >>[Law 101](#)

For help responding to a civil Summons and Complaint:

Sacramento County Public Law Library Civil Self Help Center

609 9th Street, Sacramento 95814

www.saclaw.org/self-help/civil-self-help-center/

Services Provided: The Sacramento County Public Law Library Civil Self Help Center provides general information and basic assistance to self-represented litigants on a variety of civil legal issues. Appointments will be made beginning at 8:30 a.m. Patrons who are present at 8:30 a.m. will be entered into a random drawing to determine the order their case will be evaluated. If an appointment is appropriate, it will be made for later in the day. You are encouraged to arrive by 8:25 a.m. to participate in the appointment drawing.

Eligibility: Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council forms commonly used in this procedure are

- [Notice of Stay of Proceedings](#) (CM-180)
- [Proof of Service](#) (POS-030)

Download the blank forms from these links or www.courts.ca.gov.

Sample filled-in forms with instructions are available at the end of this Guide.

CM-180

| | |
|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar No.) Damon Defendant 123 Oak St. Sacramento, CA 95814 TELEPHONE NO.: 916-555-1212 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): In Pro Per | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento STREET ADDRESS: 720 Ninth St. MAILING ADDRESS: CITY AND ZIP CODE: Sacramento, CA 95814 BRANCH NAME: Gordon D. Schaber Sacramento County Courthouse | |
| PLAINTIFF/PETITIONER: Acme Credit, Inc. DEFENDANT/RESPONDENT: Damon Defendant | CASE NUMBER: 34-2010-00012345 JUDGE: Smith DEPT. 1 |

Enter your name, address, and phone number

Enter "In Pro Per" (indicating you do not have a lawyer)

Enter address and branch name of courthouse where your case is being heard

Enter name of plaintiff (the other party) and your name (defendant)

Enter your case number. If known, enter Judge's name and department number.

To the court and to all parties:

1. Declarant (name): **Damon Defendant**
- a. is the party the attorney for the party who requested the stay.
- b. is the plaintiff or petitioner the attorney for the party who requested the stay. The party who requested the stay has not appeared in this case or is not subject to the jurisdiction of this court.

Enter your name and check (a) and "the party"

Enter your case number. If known, enter Judge's name and department number.

2. This case is stayed as follows:
- a. With regard to all parties.
- b. With regard to the following parties (specify by name):

If you are the only defendant, check (a). If not, check "b" and enter your name

3. Reason for the stay:
- a. Automatic stay caused by a filing in another court. (Attach a copy of the Notice of Commencement of Case, the bankruptcy petition, or other document showing that the stay is in effect, and showing the court, case number, debtor, and petitioners.)
- b. Order of a federal court or of a higher California court.
- c. Contractual arbitration under Code of Civil Procedure section 1712.2 (contractual arbitration.)
- d. Arbitration of attorney fees and costs under Business and Professions Code section 6201. (Attach a copy of the client's request for arbitration showing filing and service.)
- e. Other:

Check (a) and attach the file-stamped Bankruptcy Petition (first page)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **November 24, 2010**

Damon Defendant
(TYPE OR PRINT NAME OF DECLARANT)

Damon Defendant
(SIGNATURE)

Sign your name

Enter the date and type your name

58

Form 1 (Official Form 1) (1/08)

| | | |
|--|--|--|
| United States Bankruptcy Court Northern District of California | | Voluntary Petition |
| Name of Debtor (if individual, enter Last, First, Middle): F | | Name of Joint Debtor (Spouse) (Last, First, Middle): E |
| All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): N/A | | All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names): E |
| Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): 6176 | | Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): 1515 |
| Street Address of Debtor (No. and Street, City, and State): STOCKTON, CALIFORNIA ZIP CODE 95209 | | Street Address of Joint Debtor (No. and Street, City, and State): STOCKTON, CALIFORNIA ZIP CODE 95209 |
| County of Residence or of the Principal Place of Business: SAN JOAQUIN | | County of Residence or of the Principal Place of Business: SAN JOAQUIN |
| Mailing Address of Debtor (if different from street address): ZIP CODE | | Mailing Address of Joint Debtor (if different from street address): ZIP CODE |
| Location of Principal Assets of Business Debtor (if different from street address above): ZIP CODE | | |
| Type of Debtor (Form of Organization) (Check one box.) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) See Exhibit D on page 2 of this form. <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.) | Nature of Business (Check one box.) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other Tax-Exempt Entity (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code). | Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box.) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box.) <input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input type="checkbox"/> Debts are primarily business debts. |
| Filing Fee (Check one box.) <input checked="" type="checkbox"/> Full Filing Fee attached. <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B. | Chapter 11 Debtors Check one box: <input checked="" type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(52). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(52). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debt to insiders or affiliates are less than \$2,190,000. Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126. | <p>10-10-C-7</p> <p>DEBTOR CODEBT</p> <p>DEBTOR IS PRO SE JUDGE: HON. KLEIN TRUSTEE: S. PARRAR 341 MEETINGS (Teleconference Setting): 2010. 08:00AM - mod2</p> <p>... meeting notice to be mailed CHAPTER: 7 COUNTY: SAN JOAQUIN</p> <p>FILED 2/19/10 - 2:27 PM RELIEF ORDERED CLERK: U.S. BANKRUPTCY COURT EASTERN DISTRICT OF CALIFORNIA RECEIPT NO: 9-10-01289 \$239.00</p> |
| Statistical/Administrative Information <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors. | | |
| Estimated Number of Creditors <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 | | |
| Estimated Assets <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input checked="" type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion | | |
| Estimated Liabilities <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input checked="" type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion | | |

Attach the file-stamped Bankruptcy Petition (first page). Be sure that it displays the court stamp and case number.

POS-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Damon Defendant
 123 Main St.
 Sacramento, CA 95814

FOR COURT USE ONLY

TELEPHONE NO.: 916-555-1212

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): In Pro Per

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento

STREET ADDRESS: 720 Ninth St.

MAILING ADDRESS:

CITY AND ZIP CODE: Sacramento, CA 95814

BRANCH NAME: Gordon D. Schaber Sacramento County Courthouse

PETITIONER/PLAINTIFF: Acme Credit Inc

RESPONDENT/DEFENDANT: Damon Debtor

PROOF OF SERVICE BY FIRST-CLASS MAIL

Case Number: 104-2010-00012345

Enter your name, address, and phone number

Enter "In Pro Per" (indicating you do not have a lawyer)

Enter address and branch name of courthouse where your case is being heard

Enter name of plaintiff (the other party) and your name (defendant)

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.

2. My residence or business address is:
789 Elm St.
Sacramento, CA 95814

Enter information about server

Enter your case number.

3. On (date): Oct. 15, 2010 I mailed from (city and state): Sacramento, CA the following documents (specify):
Notice of Stay of Proceedings

Enter date and place of mailing

The documents served by First-Class Mail—Civil (Documents Served) (form POS-030)

Enter name(s) of document(s) served

4. I served the documents by enclosing them in an envelope and (check one):

a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.

b. placing the envelope for collection and mailing following our ordinary business's practice for collecting and processing correspondence for placement for collection and mailing, it is deposited in the ordinary course of business in a sealed envelope with postage fully prepaid.

Check box (a) if deposited in the mail; (b) if deposited in business mail.

5. The envelope was addressed and mailed as follows:

a. Name of person served: Anna Attorney

b. Address of person served:
The Law Offices of Anna Attorney
456 First St.
Sacramento, CA 95814

Enter name and address of person served (other party's attorney, or if none, other party)

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030/PV)

Server will sign here after putting document(s) in mail

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Oct. 15, 2010

Date and type name of server

Susan Server
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)