

## Chapter 14—Default

One should not overlook defaulting as an response to a lawsuit. Sometimes there is much to be said for doing nothing. As we shall see when we address the plaintiff's taking of a [{default judgment}](#), the plaintiff cannot obtain a judgment upon the defendant's default for more than the [amount prayed for](#) in the complaint or set forth in the plaintiff's [statement of damages](#). If the plaintiff's claim has merit and the amount he seeks does not exaggerate the harm he suffered, then the defendant has little reason to invest substantial sums in a futile attempt to avoid certain liability. The same is true if the defendant has no assets at risk of the plaintiff's execution of a judgment.

### § 14.01 Collateral Attack on Default Judgments

If the defendant defaults, he forfeits the opportunity to challenge the court's jurisdiction over him by means of a [motion to quash service of the summons](#). The plaintiff's default judgment does not constitute an adjudication of the issue of personal

→Challenging Personal Jurisdiction

jurisdiction. Thus, the defendant preserves his right to raise jurisdictional objections in a more hospitable forum if the plaintiff obtains a judgment in California and seeks to execute upon it elsewhere.<sup>1</sup>

### § 14.02 Compulsory Claims

By failing to answer, the defendant does not forfeit claims covered by the [compulsory cross-complaint rule](#).<sup>2</sup> Thus, the defendant preserves the opportunity to assert his claims against the plaintiff in a forum and at a time of his own choosing, so long as the applicable statute of limitations does not bar them.

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<sup>1</sup> *Cf.* American Sur. Co. v. Baldwin, 287 U.S. 156, 166–67 (1932) (a party who litigates the issue of personal jurisdiction is bound by the court’s determination). *See generally* 2 B.E. WITKIN, CALIFORNIA PROCEDURE, *Jurisdiction* §§ 278–279 (3d ed. 1985).

<sup>2</sup> CODE CIV. PROC. § 426.30(b)(2).