

HOW TO FILE AN ANSWER TO A COMPLAINT WITHOUT AN ATTORNEY

Attached is a form you may use to file your Answer to the Complaint filed against you. The Answer will give you the opportunity to tell your side to the Court.

You may have legal claims of your own against the person who filed the complaint against you, and you may wish to include these in your Answer. Such claims are called “counterclaims.” If your case has not been evaluated for counterclaims (or for defenses) by an attorney, you should ask for help from an attorney to do it properly. If you have any claims against the person who sued you, you should try to contact a private attorney immediately, before you write your claims.

FAILURE TO ANSWER IS ADMITTING THE COMPLAINT

If you look at the SUMMONS, which often is the first page of the papers that you received from the Court, you will notice that it demands that you Answer the complaint within 28 days after you are served with the Summons. **YOU MUST FILE YOUR ANSWER WITHIN 28 DAYS.**

The page immediately below the Summons should be the first page of the Complaint against you. Read the complaint carefully. Failure to answer the Complaint **in writing within 28 days** after you receive it is an admission that what the Complaint says is true and the other person should win whatever they have asked for from the Court. If you do not answer the Complaint in writing the law says that you therefore agree what the complaint says is true, that the other side should win, and generally the other side may be able to make you pay money to them. If this is the case, there is no reason for the Court to have a trial, other than possibly a short hearing to determine the amount of the damages.

If there is no trial, then you will not get your day in court. Also, if you do not file an Answer to the Complaint, you may not receive any further notice from the Court about what is happening in your case until the person who has sued you tries to collect their judgment by garnishing your wages or seeking to attach your personal property. (If, however, you do not earn or own enough, then your wages or property might be exempt from attachment. Public assistance cannot be garnished or attached.)

HOW TO PREPARE YOUR WRITTEN ANSWER

In preparing a written Answer to the Complaint, certain information must be included so that your Answer will be properly recorded when it is received. Write this information the same way as it appears on the Complaint. You must include:

1. Name of the Court and County
2. Name and address of the person who sued you (Plaintiff)
3. Your name and address (Defendant)
4. Case Number and name of the Judge

You should address the Judge as “Your Honor.” Then tell the Judge that you are writing to him or her about a lawsuit filed against you in the Judge’s court. You should then admit whatever it is in the Complaint that is true, and deny whatever is not true. If the Complaint filed against you has numbered paragraphs, as most of them do, then go through the Complaint paragraph by paragraph, admitting what is true and denying what is not true.

Whenever you deny something in the Complaint, you should also state briefly your reason why you are denying it or any part of it. For example, if the Complaint says that you owe money but you know that you already paid the money, then you should deny that you owe the money and say that you already paid it.

At the end of your Answer, ask the Judge to dismiss the Complaint. Then print your name, address, and phone number legibly.

CERTIFICATE OF SERVICE

Fill in the address of the Plaintiff or Plaintiff’s attorney, if applicable, and the date you mailed your Answer to Plaintiff or Plaintiff’s attorney.

HOW TO FILE YOUR ANSWER

After you have prepared your Answer, make two copies of it. Mail one of these copies to the Plaintiff or Plaintiff’s attorney who filed the Complaint against you. Although you do not have to mail the Answer by certified mail, you may want to ask the Post Office to provide you with a Certificate of Mailing. This will prove the date you mailed the Answer and to whom it was addressed.

Within three days of mailing a copy to the Plaintiff or the Plaintiff’s attorney, take the original of your Answer and your remaining copy to the clerk’s office of the court that served the papers on you. After file-stamping the original and the copy, the clerk will keep the original and return the copy to you. The original will go into the Judge’s file so that the Judge can read it. Keep your file-stamped copy in a safe place because it is your proof that you filed your Answer in the place and on the date indicated in the file stamp. It is like a receipt.

AND THEN WHAT?

After you are done with all of this, the Judge will have your Answer, the person who filed the Complaint against you will have a copy of your Answer, and you will have a copy of your Answer with proof that you have filed the original with the Court. Everyone will know where you stand and that you are fighting the Complaint. The Court will then keep you updated on what happens in your case, and the person who filed the Complaint against you will know where to send any additional papers that he or she may file.

You must keep the Court and the other side up-to-date on what your current address is and

what your telephone number is, if you have a phone number. This is so that the Court and the other side can continue to communicate with you. If you move, they will not look for you. If any of the information you gave the Court in your Answer changes, send another paper with the new information to the Clerk with the case number and parties' names; make sure you include what was your address.

The Court may set your case down for what is called a pre-trial hearing, which is an informal conference in which the Judge meets with the people involved in the case to see if it can be settled without a trial, and, if there must be a trial, how long it will take and what the issues will be.

Eventually, the Court will set your case down for a full hearing (the trial). At that hearing you will have the opportunity to present witnesses (including yourself) and other evidence against the statements in the Complaint. After hearing evidence from both sides and determining what evidence is properly admissible and what is not, the Judge will render a decision. Sometimes, the Judge gives his or her decision "from the bench," or he or she gives the decision later, after having an opportunity to think about the case.

I ask the Court to:

(Pro se)

(Address)

(City and State)

(Telephone Number)

CERTIFICATE OF SERVICE

A copy of this document was served upon Plaintiff or upon Plaintiff's attorney at the following address: _____ by ordinary U.S. Mail, postage pre-paid, this ____ day of _____, _____.

(Your signature)