

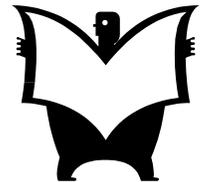
## INSTRUCTIONS TO ANSWER A COMPLAINT

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### Step 1. Read the Complaint

You have received a summons and complaint which require for you to respond or answer within 30 days from the date that you received the complaint.

Read the complaint carefully. You should note that the allegations or statements in the complaint are set in paragraphs that are numbered consecutively.



You should respond to each paragraph in the complaint using the exact number used in the complaint.

The Plaintiff is the person or entity who initiated or filed the complaint. The name of the Plaintiff appears in the first page of the complaint on the top left side. The Defendant is the person or entity of which the Plaintiff is complaining.

For example,

ABC Inc.,  
Plaintiff

vs.

John Smith,  
Defendant

There may be more than one Plaintiff and more than one Defendant. Each Defendant must answer the complaint. If there are more than one Plaintiff, you should consult with a lawyer to determine, among other factors, if your answer or response should be the same for all the Plaintiffs or if it is different.

At the end of the complaint is the Plaintiff's request for relief or what the Plaintiff desires to get from the court. This section typically starts with the phrase "Wherefore Plaintiff requests..." This section is also known as the **wherefore clause**. Read the wherefore clause section carefully. It will tell you what the Plaintiff seeks.

For example,

Plaintiff seeks judgment against Defendant John Smith in the amount of \$10,000. plus interest. This means that the Plaintiff wants a judgment that specifies that John Smith owes him \$10,000.

## **Step 2. When you must answer the complaint**

You must answer the complaint and file it at the office of the Clerk of Court within 30 days from the date you personally received the complaint or if received by registered mail, the date when you signed for the complaint. If you cannot respond within that time you must request additional time to answer.

If you have to request additional time to answer, you must do it before the 30 days to answer have passed. To request additional time to answer you should consult an attorney.

The consequences of not answering a complaint within the 30 days provided by law are serious. As soon as you receive a complaint you should note the date in a calendar and also note the deadline to answer. You should count weekends. If the 30th day falls on a weekend or holiday you count the next working day.

For example, If you received the complaint on September 1, the deadline to answer is 30 days after September 1. The deadline would be September 30. If September 30 falls on a Saturday you have until Monday to file your answer. If you have any questions about service of the complaint consult a lawyer.

## **Step 3. Answering the complaint**

Your response to the complaint is called the answer. You should respond to each paragraph of the complaint matching your response to the exact number used in the complaint.

**Be very careful with the statement you make in your answer. These statements can become admissions of facts that could be used against you. You must be truthful and brief.**

A. When you agree with the allegations in the complaint.

**If you agree** with the statement in the complaint your response should be "Admitted".

For example,

Complaint

Answer

Paragraph 1 in the complaint states:

1. Plaintiff is a corporation known as ABC, Inc.

1. Admitted

B. When you disagree with the allegations in the complaint

**If you disagree** with the statements in the complaint your response should be "Denied".

For example,

Paragraph 3 in the complaint states:

Answer

3. Defendant entered a contract with the Plaintiff.

3. Denied

Note that in each example above the number of the paragraphs in the complaint and answer match.

C. When you do not know if you can agree or disagree with the allegations in the complaint:

Sometimes you do not know if the statement in the complaint is true or not or you do not have enough information to determine if the statement is correct. In that case your response should be: "lack enough information to respond".

For example,

Complaint

Answer

2. Plaintiff is a corporation licensed in NC and NJ.

2. Lack enough information to respond to Plaintiff's allegations.

D. When you agree but need to explain

You may need to explain why you deny the statements in the complaint.

For example,

Complaint

Answer

5. Defendant's last payment under the contract was in April 2008.

5. Denied. Defendant's last payment was in April 2005.

**Be brief. Answer the allegations in the complaint with one or two sentences. Again remember that the statements you make in your answer can be used as admissions against you.**

E. When you agree with part of the allegation but disagree with part

Your response to the allegations in the complaint may admit part of the statement in the specific paragraph and deny part. Your response should then be "...admitted in part and denied in part".

For example,

Complaint

Answer

10. Plaintiff and Defendant entered a contract for the purchase of a car on January 20, 2008.

10. Admitted in part and Plaintiff and Defendant entered a contract for the purchase of a car on January 15, 2004.

F. When you want to refer to documents

You may also desire to include in your answer a copy of a document. Documents can be attached to your answer, made part of your answer and referred to in your answer. Documents are then referred to as "**Attachments**" or "**Exhibits**". Copies of all attachments or exhibits are numbered and attached at the end of the Answer.

For example,

Complaint

Answer

10. Plaintiff and Defendant entered a contract for the purchase of a car in January, 2008.

10. Admitted in part and Plaintiff and Defendant entered a contract for the purchase of a car on January 25, 2004. Exhibit 1 is a copy of the contract.

11. The purchase price in the contract referred to in paragraph 10 is \$21,000.

11. Denied. The purchase price contract referred to in paragraph 11 is \$15,000. See exhibit 1.

**Each exhibit should be designated with the number or letter used to refer to it in the complaint and stapled at the end of the Answer.**

**Step 4. The complaint may be divided in sections or different claims.**

Sometimes the complaint is organized in sections that specify different claims against the Defendant. These sections may have different titles. For example one section may be titled, "Breach of Contract" and another may be titled "Fraud".

Each of these sections starts with a paragraph that reads "Plaintiff realleges and incorporates herein the preceding paragraphs". In your response to this paragraph you should repeat the same allegation.

For example,

Complaint

21. Plaintiff realleges and incorporates the allegations of paragraphs 1 through 20.

Answer

21. Defendant realleges and incorporates the allegations of paragraphs 1 through 20.

**Step 5. Counterclaims and affirmative defenses: Defendant's claims against Plaintiff.**

You may have your own claims against the Plaintiff. If so, you should state those claims in your answer. You should consult with a lawyer to determine your claims and defenses.

After you have completed answering all the allegations in the complaint, you then should list your own claims and defenses.

Each of your claims and defenses should start with a paragraph that realleges all preceding paragraphs and continues with the numbers of paragraphs in sequence following the last number.

For example,

Complaint

25. Defendant breached the contract entered in January, 2008.  
26. Plaintiff suffered damages of \$17,000 as a result of the breach

Answer

Defense of Statute of Limitations

27. Defendant realleges and incorporates herein the allegations of paragraphs 1 through 26.

Wherefore, Plaintiff seeks judgment against Defendant for...

28. Defendant's last payment was in February 2004.

29. Plaintiff's claim is prohibited by the Statute of Limitations.

**NOTE the sequence of number in the Answer. Defendant's answer starts with paragraph 27 following the last paragraph in the complaint paragraph 26.**

**Step 6. Defendant's request for judgment: Defendant's wherefore clause.**

At the end of answering the complaint, you also specify what you want to get from the court. You should conclude your answer with a "**wherefore clause**".

For example,

In the example above, Defendant's conclusion should read as follows:

"Wherefore Defendant seeks dismissal of Plaintiff's complaint and that Plaintiff recovers nothing."



**Answering a complaint correctly is complicated. You should consult a lawyer.**

**When you sign your documents, you are telling the court that the statements contained therein are true to the best of your knowledge, so it is important to read all of the documents carefully before signing them to ensure that the information they contain is accurate.**

**INSTRUCTIONS FOR FILING AN ANSWER TO A CIVIL COMPLAINT**

1. Sign the Answer where indicated.
2. Also fill out the certificate of service with the date on which you intend to mail a copy to the opposing side and sign it. The certificate of service is your verification that you have mailed a copy of your answer to the Plaintiff

or the Plaintiff's attorney.

If the Plaintiff is represented by an attorney you need only to mail a copy to the attorney. If you file any documents with the court at any time in this matter you must send a copy to the opposing side and provide the court with a similar certificate of service.

3. The answer must be filed with the Clerk of Court in the county in which the plaintiff brought his claim and it must be filed within the time specified on the summons which was served on you. You **may mail** the Answer to the Court for filing; however, we recommend that you **hand-deliver** it so that the clerk can answer any additional questions you may have. Call the clerk's office to make sure that you have the correct address to which to hand deliver or mail the answer.
4. Make an extra copy - If you hand-deliver the Answer, ask the clerk to give you a time stamped copy of the document so you can prove that you filed it in a timely manner and in the right court.
5. Remember to make a copy of the answer for your own files.

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