

PREPARING YOUR *ANSWER* TO CIVIL COMPLAINT

As a Pro Se Litigant, it is YOUR responsibility to comply with all court rules and procedures. Employees of the court CANNOT give legal advice. If you wish further assistance or representation, please consult an attorney.

To begin a lawsuit, a plaintiff must serve you with a Summons, and a Complaint. You have 30 calendar days after receiving (being "served" with) the documents to file your WRITTEN Answer to the claims made in the Complaint.

It is EXTREMELY IMPORTANT to file an Answer to a Complaint within 30 days from when you were served. If you fail to file an Answer, the other party can go to court without you and ask for a judgment that gives the other party everything asked for in the Complaint. This is called a "*default judgment*" and it can be difficult to challenge once the default judgment has been issued. In counting when the 30 day answer period ends, it is better to be safe and file your Answer a few days earlier than the 30 day time period. The 30 days run from the time you are "served" with the papers, not from the date stamped on the Summons and Complaint. If someone else accepts the papers for you, the 30 days run from that date which may be earlier than when the documents are actually received by you.

It is a good idea to file an Answer even if it is late (after the end of the 30 days). Whether a late Answer will be accepted is up to the judge assigned to your case. As mentioned above, failure to file an Answer can result in serious consequences.

PREPARING THE ANSWER

1. Heading or Caption

The caption should be EXACTLY the same as the caption or heading on the Complaint. The caption is the top left-hand section of the first page of the Complaint. It shows the court, the case number, the name of the plaintiff and the name of the defendant. If you are filing an Answer, you are the defendant. Here is an example:

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

NO. CV 0000-3333

CHASE BANK ONE,
Plaintiff,

V.

JOHN SMITH,
Defendant.

2 Title of Pleading

You are preparing an "Answer" which is a type of pleading. The title of your pleading is "Answer to Complaint" which is already indicated on the Answer form in this packet.

3 The Body of the Answer

Within the body of your pleading, you must respond to all the claims or "allegations" of the Complaint. Some of them you will agree with; others you will not agree with. You will have to read each paragraph of the Complaint carefully and decide which you agree with and which you do not, and state why you do not. Your Answer should be short, plain, simple, and concise. Your Answer should go into enough detail for the judge and the other party to know what your position is.

The Rules require that the Answer be:

- (1) On good quality white paper that is **8 1/2" x 11."**
- (2) Top and left margins are at least 1 ¹/₄." Bottom margin is 1" and right margin at least 1/2."
- (3) Type or print ONLY. Typewritten text must be 10 or 12 pitch and letter quality.
- (4) Main body must be double spaced. Captions and titles may be single- spaced.
- (5) Signatures are followed by typed or printed name, capacity (e.g., "Defendant Pro Se"), address, telephone number, cell phone number, and e-mail address.

Please see Rules of Civil Procedure for the District Courts; 1-008, 1-012 for more information.

4 Affirmative Defenses

An affirmative defense is that state of facts provable by the defendant which will bar the plaintiff's right to recovery. Use paragraph 4 of the Answer form to tell the judge the facts that disprove or counter the claims made by the plaintiff in the Complaint. State all information which you will use to defend your position.

5 The Relief sought in your Answer

After you have prepared the caption, the title, and the body of the Answer, you must complete the claim for relief. This section begins with "WHEREFORE" and tells the judge what "relief" or result that you want if you were to win this case. The claim for relief may include a request for reimbursement of court costs, and attorney's fees.

6. Signature Block

Your Answer must be signed by you, indicate that you are Pro Se (representing yourself), and identify your address, telephone number, cell phone number (if you have one), and e-mail address (if you have one).

Example of the signature block:

JANE DOE
Defendant Pro Se
12345 Happy Town Road
Albuquerque, NM 87100
(505) 555-9999
(505)999-5555 (cell)
janedoe@emailaddress.com

7. Mailing Certification

To complete the mailing certification, you need to check the appropriate box, insert the date you mailed, hand-delivered, or faxed the copy to the Plaintiff (in the blanks provided), and sign on the line beginning with "By". This is your certification to the court that you have served a copy of your Answer to the other party or parties. If there is more than one party, you will need to complete a certification for each party.

Example of the mailing certification:

I hereby certify that on _____, 20__, a true and correct copy of the foregoing pleading was:
 mailed, hand-delivered, or faxed

to: _____
(Plaintiff's name, and address or fax number)

By: _____
Jane Doe (signature)

8. Completion

You have now completed your Answer. Please refer to the Procedure page for instructions on filing your Answer with the court.