

Instructions: Answering a Complaint

These forms were prepared by the Justice & Diversity Center, a nonprofit organization, and are not official court forms.

Checklist

This packet provides a general Answer form. **This packet is also available in a fillable pdf version on the Court's website at www.cand.uscourts.gov/civillitpackets.** This packet includes the following forms:

- Answer
- Certificate of Service

General Instructions

A. After you receive a Summons and Complaint, you must file a written response (either an Answer or a motion challenging the Complaint) within a limited amount of time. The forms in this packet can be used to file an Answer to a Complaint filed in the Northern District Court of California.

B. **Fill out the Answer form and Certificate of Service COMPLETELY.** The following instructions explain show you how to complete the Answer form. **Be sure to sign and date each form.**

C. **IT IS VERY IMPORTANT THAT YOU FILE YOUR ANSWER ON TIME.** The amount of time you have to file the Answer depends on how you were served. Most Defendants have 21 days after being served with the Summons and Complaint to respond.

D. **Serving and Filing the Papers.** Make sure that a copy of the Answer is served on the Plaintiff(s) in one of the ways listed on the Certificate of Service. Have the person who served the Answer fill out the Certificate of Service. You can do this yourself. Then, mail or hand-deliver the **original plus two copies** of the Answer and Certificate of Service to the Clerk's Office at the court to which you are assigned. The Clerk will take the original and one copy. The other copy is for you to keep after it is stamped by the Clerk. If you file by mail, include a self-addressed, stamped envelope so that the Clerk can send a copy back to you.

E. You must tell the Clerk right away if your mailing address changes. If the Court is unable to contact you, you may miss important deadlines, causing you to lose your case.

More Information

This packet does NOT tell you everything you need to know about answering a Complaint. **Before you file your Answer**, we recommend that you:

- If your case is in the San Francisco/Oakland federal courthouse, make an appointment with the **Legal Help Center** for free legal information and advice by calling 415-782-

8982 OR sign up at 450 Golden Gate Ave., S.F., 15th Floor, Room 2796 OR 1301 Clay Street, Oakland, 4th Floor, Room 470S. If your case is in San Jose, make an appointment with the **Federal Legal Assistance Self Help Center** by calling (408) 297-1480 OR by signing up at 280 South First Street, S.J., Room 2070.

- Read **Chapter 10** of the **Handbook for Pro Se Litigants** for information on how to answer a Complaint, available at the Clerk’s Office or www.cand.uscourts.gov/prosehandbook.

How to Complete the Answer Form

Before filling out this Answer form, consider whether you want to respond to the Complaint by filing an Answer or a Motion challenging the Complaint. Read Chapter 10 of the Handbook for Pro Se Litigants to learn more.

An Answer is a written response by the Defendant that (1) responds to each and every allegation (fact or claim) in the Plaintiff’s Complaint and (2) raises any legal defenses, called “affirmative defenses,” to the claims. This Answer form is one way to answer the Complaint. In the Answer form, some instructions are provided *in italics*, but most of the Answer form is blank and you will need to decide what to write depending on what the Complaint says.

1. Responses

First, read each paragraph of the Complaint very carefully. Each paragraph should be numbered.

- If everything in the paragraph is **true**, write that paragraph number in Section B.
- If you **don’t know** whether the paragraph is true or not, write that paragraph number in Section C.
- If the paragraph is **partly true and partly false**, write that paragraph number in Section D and explain which specific parts of the paragraph are true.
- If everything in the paragraph is **false**, do not write that paragraph number anywhere. The first paragraph of this Answer denies everything that is not specifically admitted.

Use more pages if needed.

For example:

1. Responses to the Claims in the Complaint

A. Defendant **denies** each and every allegation in the Complaint except those specifically admitted in this Answer.

B. Defendant **admits** all of the allegations in the following paragraphs:
1, 3, 4, 10, 12

C. Defendant **does not know** or have enough information to form a belief as to whether the allegations in the following paragraphs are true:

5, 6, 7, 13, 14, 15, 16

D. Defendant **admits only the following parts** of each paragraph listed below, and denies or does not know enough to say whether the rest of the paragraph is true:

Paragraph 2: I admit only that I am a citizen of the state of California.

Paragraph 11: I admit only that I visited the Plaintiff at his house on May 3, 2009.

2. Affirmative Defenses

An affirmative defense is an argument that, even if what the Plaintiff claims is true, the Plaintiff's claim should fail for some procedural or legal reason. **In Section 2 of your Answer, you must include all affirmative defenses that you think you might have because you cannot make any defense at trial that you did not raise in your Answer.** The purpose of this rule is to give the Plaintiff enough notice of the defenses you plan to raise at trial, so he or she can prepare counterarguments to those defenses. If you don't know the right legal terms for your defenses, like "statute of limitations" or "assumption of risk," just explain your reasons clearly, in your own words.

Example 1: Statute of Limitations

Plaintiff sued Defendant in 2010 for stealing his expensive sports car. The car was stolen in 1998 and the Plaintiff has known about the theft since then. California has a three-year statute of limitations on lawsuits alleging theft of personal property, so Plaintiff only had until 2001 (three years after the theft) to file his lawsuit. In his Answer, Defendant will explain that Plaintiff's lawsuit should be dismissed because the statute of limitations has expired.

Example 2: Assumption of the Risk

Defendant teaches surfing lessons and Plaintiff was one of his students. During one lesson, a big wave caused Plaintiff to hit his head on his surfboard. Plaintiff sued Defendant for his injury. Before allowing Plaintiff to take the class, Defendant had required Plaintiff to sign an agreement that stated, "I understand that surfing is an inherently dangerous activity and I voluntarily and knowingly assume the risk of injury during these surfing lessons." In his Answer, Defendant will explain that Plaintiff's lawsuit should be dismissed because Plaintiff assumed the risk of injury. In other words, Plaintiff knew the risks and took the lessons anyway.

A list of the most common affirmative defenses is given in Federal Rules of Civil Procedure 8(c). If you believe you have one of these defenses, you should talk to a lawyer to determine how to properly plead the defense in your Answer.

For example:

<p>2. Affirmative Defenses</p> <p><input checked="" type="checkbox"/> Failure to State a Claim. The Complaint fails to state a claim upon which relief can be granted.</p> <p><input type="checkbox"/> Statute of Limitations. The Plaintiff's claim is barred by the relevant statute of limitations.</p> <p>Others: <u>The Plaintiff has already been paid for his services.</u></p>

OPTIONAL: Counterclaims and Crossclaims

A Counterclaim is a Complaint by the Defendant against the Plaintiff. A Crossclaim is a Complaint by one Defendant against another Defendant, or by one Plaintiff against another Plaintiff. If you want to make a Counterclaim or Crossclaim, you should do so here. In the caption, sure to check the box for "Counterclaim" or "Crossclaim." Some Counterclaims are "compulsory," which means that they must be filed at the same time the Defendant files his or her Answer. See Federal Rule of Civil Procedure 13 and Chapter 10 of the Handbook for Pro Se Litigants for more information on Counterclaims and Crossclaims.

3. Demand for Relief

Say what you want the Court to do for you.

All Defendants who are responding to the Complaint with this Answer must sign, date, and print their names at the bottom of the Answer.

1 Your Name: _____
 2 Address: _____
 3 Phone Number: _____
 4 Fax Number: _____
 5 E-mail Address: _____
 6 Pro Se Defendant

8 United States District Court
 9 Northern District of California

	}	Case Number: _____
	}	ANSWER
Plaintiff(s),	}	<i>Check only if you include a Counterclaim or Crossclaim:</i>
vs.	}	
	}	<input type="checkbox"/> AND COUNTERCLAIM
	}	<input type="checkbox"/> AND CROSSCLAIM
	}	Judge: Hon. _____
	}	
Defendant(s).	}	

21 **1. Responses to the Claims in the Complaint**

- 22 *Each paragraph of the Complaint should be numbered. Read each paragraph carefully.*
- 23 • *If everything in the paragraph is **true**, write that paragraph number in Section B, below.*
 - 24 • *If you **don't know** whether the paragraph is true or not, write that paragraph number in Section C, below.*
 - 25 • *If the paragraph is **partly true and partly false**, write that paragraph number in Section D below and explain which specific parts of the paragraph are true.*
 - 26 • *If everything in the paragraph is **false**, do not write that paragraph number anywhere. The first paragraph of this Answer denies everything that is not specifically admitted. Use more pages if needed.*

27 A. Defendant **denies** each and every allegation in the Complaint except those
 28 specifically admitted in this Answer.

B. Defendant **admits** all of the allegations in the following paragraphs:

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C. Defendant **does not know** or have enough information to form a belief as to whether the allegations in the following paragraphs are true:

1 D. Defendant **admits only the following parts** of each paragraph listed
2 below, and denies or does not know enough to say whether the rest of the paragraph is true [*use*
3 *more pages if needed*]:

4 Paragraph ____: I admit only that _____
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9 Paragraph ____: I admit only that _____
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14 Paragraph ____: I admit only that _____
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19 Paragraph ____: I admit only that _____
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24 Paragraph ____: I admit only that _____
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1 **2. Affirmative Defenses**

2 *State any factual or legal reasons that the Plaintiff cannot win this case, even assuming*
3 *that everything the Plaintiff said in the Complaint is true. See Federal Rule of Civil Procedure*
4 *8(c) for a list of affirmative defenses. Two common defenses are listed below; check their boxes*
5 *if they apply to your case. Make sure that you list every affirmative defense you may have.*

6 Failure to State a Claim. The Complaint fails to state a claim upon which relief
7 can be granted.

8 Statute of Limitations. The Plaintiff's claim is barred by the relevant statute of
9 limitations.

10 Others:
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OPTIONAL: Counterclaim against the Plaintiff(s)

Write any Counterclaim you may have the same way you would write a claim in a Complaint. See the Instructions for the Complaint form. Also read chapter 10 of the Pro Se Handbook and Federal Rule of Civil Procedure Rule 13.

OPTIONAL: Crossclaim against another Defendant

Write any Crossclaim you may have the same way you would write a claim in a Complaint. See the Instructions for the Complaint form. Also read chapter 10 of the Pro Se Handbook and Federal Rule of Civil Procedure Rule 13.

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3. Demand for Relief

Check one or more boxes to tell the Court what you would like it to do.

WHEREFORE, Defendant(s) demand(s):

- That the Court enter judgment dismissing the Complaint;
- That Defendant(s) be awarded costs incurred;
- That Defendant(s) be awarded such other and further relief as the Court may deem just;
- Other: _____

If more than one Defendant is included in this Answer, each must sign and date below. Attach another page if you need to.

Respectfully submitted,

Date: _____

Signature: _____

Printed name: _____
Defendant Pro Se

CERTIFICATE OF SERVICE

Use this form to show that a paper or document (other than a complaint) was served (sent or delivered) to an opposing party in accordance with Federal Rule of Civil Procedure 5. A different form is needed to serve a complaint under Federal Rule of Civil Procedure 4.

Case name: _____

Case number: _____

What document was served? *(Write the full name or title of the document or documents, e.g., "Plaintiff's Opposition to Defendant's Motion for Summary Judgment.")*

Title(s): _____

How was the document served? *(Check one.)*

- Placed in U. S. Mail
- Sent by fax
- Hand-delivered
- Sent by delivery service (e.g., FedEx or UPS)

To whom was the document sent? *(Write the full name, address, and fax number of everyone who was sent the document. Usually, they will be the lawyers for the opposing parties.)*

When were the documents served? *(When were they mailed, faxed, or delivered?)*

Date: _____

Who served the documents? *(Whoever puts it into the mail, faxes, hand-deliveres, or sends by delivery service should print his/her name, address and sign. You can also do this yourself.)*

I declare under penalty of perjury under the laws of the United States of America that the information in this certificate of service is true and correct.

Signature: _____

Printed name: _____

Address: _____