

HOW TO FILE AN ANSWER TO A DIVORCE COMPLAINT WITHOUT AN ATTORNEY

It is best, if you can afford, to hire an attorney to help you. If you cannot afford an attorney, this packet can provide you with information on how to answer the divorce complaint so that you will have an opportunity to tell your side in Court. **IT IS VERY IMPORTANT THAT YOU ANSWER THE COMPLAINT AND THAT YOU ATTEND EVERY HEARING. It is your responsibility to keep the Court and your spouse's attorney aware of your current address.**

**YOU MUST ANSWER THE COMPLAINT WITHIN 28 DAYS
OF THE DATE YOU WERE SERVED**

The SUMMONS is often the first page of the papers you received from the Court. 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 AFTER YOU HAVE RECEIVED THE SUMMONS AND COMPLAINT.

Immediately after the Summons should be the first page of the Divorce Complaint against you. Read the Complaint carefully. If you do not answer the Complaint **in writing within 28 days** after you receive it, the Court will believe what the complaint says is true and your spouse could get a divorce from you and everything they have asked for from the Court. If you do not answer the Complaint in writing, you may not be notified of the final divorce hearing.

If you do not answer and do not appear at the final hearing, 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 after the judge has made a final

decision. **Again, it is very important that you keep the Court and the opposing attorney informed regarding your current address so you will receive notification of all Court hearings.**

HOW TO PREPARE YOUR ANSWER

Preparing a written Answer to the Complaint is easy. Look at the Sample Answer attached to see how an Answer looks. You should type or neatly write your Answer. Your answers tell the Court what you believe is wrong in the Complaint and what you would like the Court to do for you in the divorce. Blank lines have been provided in the attached Answer from for you to use (Lines 6 and 7). Look at page 9 for what to put where. Look at the sample Answer showing how an Answer might look when it is completed.

Go through the Complaint paragraph by paragraph to see if the Complaint says anything you believe is wrong. For example, if the Complaint has the wrong marriage date or the children's names or birth dates are wrong, you should state in your Answer the correct information. Or if the Complaint says there are no debts of the marriage and you do not believe this is true, you should type or write in the blank lines of your Answer that there are debts of the marriage and list them.

The names and dates of births of the minor children born from the marriage should be in the Complaint. If this information is not in the complaint or it is incorrect, you should state the children's names and their dates of birth in your Answer.

Finally, you should also write or type in your Answer what you would like the judge to do for you. Below are some things you may ask the judge to do for you:

- custody and visitation of any child of issue of the marriage and order your spouse to provide child support and health insurance
- spousal support for yourself
- division of your marital property (including debts)
- order your spouse to pay some or all of the debts of the marriage
- division of any pensions or retirement benefits

You can also ask the judge to consider the following:

- tax dependency exemptions
- mediation of certain disputes
- appointment of a guardian ad litem (an independent person appointed by the court to represent the best interests of the children)
- talking to the children in the Judge's office about which parent with whom they would like to live

At the end of your Answer, print your name, address, and phone number legibly. **SIGN**

YOUR NAME.

Complete the Certificate of Service by filling in the name and address of your spouse's lawyer or your spouse's name and address if your spouse is doing the divorce him/herself.

PLEASE NOTE: You must also complete and file a Child Custody Affidavit. That form is included with separate instructions. The Court may require other documents to be filed with your Answer. If other documents are required by your court, those documents are included with this packet. You should complete those documents and if they are required to be notarized, you must sign them in front of a notary. You will be copying, serving and filing those documents in the same way and at the same time as your Answer.

**HOW TO FILE YOUR ANSWER and
ANY OTHER DOCUMENTS**

After you have prepared, signed and notarized your Answer, and any other documents included, you need to immediately make two (2) photocopies of all documents. (You cannot handwrite your copies.) That same day MAIL one set of these photocopies to the attorney who signed the Divorce Complaint. 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, which proves you mailed the copy of your Answer and other documents on the date it was mailed, to the person to whom it was addressed.

Within 3 days of mailing one copy of all documents to the attorney (or the other person who filed the complaint against you), take the original of your Answer and your remaining photocopies to the clerk of the common pleas court that served the divorce papers on you. Be sure that you go to the Common Pleas Court where the Divorce Complaint was filed. Take the complaint with you to the clerk's office and show it to the clerk to confirm that you are in the right place. Then give the clerk both your original Answer (and all other documents) and your photocopy. Ask the clerk to file-stamp the originals and the copies and to give you your copies back.

The clerk will then keep the originals, which will go into the Judge's file so that the Judge can read them. The file-stamped photocopies will be returned to you. Keep your file-stamped copies in a safe place because it is your proof that you filed your Answer in the place and on the date showed in the file stamp. It is like a receipt. **IF THE CLERK REFUSES TO TAKE YOUR ANSWER, PLEASE CONTACT SOUTHEASTERN OHIO LEGAL SERVICES IMMEDIATELY.**

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 what you want from the divorce. 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 letter with the new information to the Clerk with the case number and parties' names. Make sure you include your old address and send a copy to your spouse's attorney.

IMPORTANT!!

IF YOU ARE SENT ANY DOCUMENTS FROM THE COURT TO COMPLETE, YOU MUST DO SO BY THE TIME SPECIFIED. YOU MAY BE REQUIRED TO COMPLETE CHILD SUPPORT INFORMATION AT THE LOCAL CHILD SUPPORT ENFORCEMENT AGENCY. YOU MUST COOPERATE WITH ALL COURT REQUESTS. IF YOU RECEIVE ANY DOCUMENT WITH A NOTICE OF HEARING, YOU SHOULD GO TO THAT HEARING.

The Court may schedule your case for what is called a pre-trial hearing. This is an informal meeting with the Judge and the people involved in the case to see what issues in the

divorce are contested and what is not. The Judge will also decide how long the final hearing will take and what the issues will need to be decided.

Eventually, the Court will schedule your case for a final divorce hearing. At that hearing you will have the opportunity to present witnesses (including yourself) and other evidence against the statements in the Complaint and what you want from the divorce. After hearing evidence from both sides and deciding 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" immediately after the hearing, or he or she gives the decision later, after having an opportunity to think about the case.

If, after you have followed all these steps, you learn that a decision has been rendered against you and you were not notified of the hearing and did not attend, please contact Southeastern Ohio Legal Services immediately. If for some reason the Court or the person who filed against you acted improperly, give Southeastern Ohio Legal Services a call right away. If the Court or the person who filed against you acted improperly and you were significantly hurt by their actions, they might be able to do something about that.

Good luck!

HOW TO FILL IN THE BLANKS

You need to fill in the numbered blanks.

1. Blank 1 Put County divorce papers filed in.
2. Blank 2a Put your spouse's name.
Blank 2b Your spouse's address.
3. Blank 3 Put Case No. (get from Complaint)
4. Blank 4 Put Judge's name. (Get from Complaint.)
5. Blank 5a Put your name.
Blank 5b Put your correct address.
6. Blank 6 Put why you disagree with divorce or any problems you have.
7. Blank 7 Put what you want the Court to do.
8. Blank 8a Sign your name.
Blank 8b/c Put your address.
Blank 8d Put your phone number.
9. Blank 9 Put address of your spouse's lawyer.
10. Blank 10 Put date mailed.
11. Blank 11 Sign your name.

IN THE COURT OF COMMON PLEAS, -1- COUNTY, OHIO

-2a-

Plaintiff's Name

CASE NO. -3-_____

-2b-

Plaintiff's address

JUDGE -4-_____

Plaintiff,

vs.

DEFENDANT'S ANSWER

-5a-

Defendant's Name

-5b-

Defendant's address

Defendant.

I, the Defendant, answers the Complaint as follows:

-6-

I ask the Court to:

-7-

I swear that the information contained in the foregoing Answer is true and correct to the best of my information and belief.

-8a-

(Sign your name)

Pro se

-8b-

(Address)

-8c-

(City and State)

-8d-

(Telephone Number)

CERTIFICATE OF SERVICE

A copy of this document was served upon Plaintiff or Plaintiff's attorney at the following address: -9-
by ordinary U.S. Mail, postage pre-paid, this -10- day of
-10-, _____.

-11-

(Your signature)

IN THE COURT OF COMMON PLEAS, _____ COUNTY, OHIO

CASE NO. _____

Plaintiff's Name

JUDGE _____

Plaintiff's address

Plaintiff,

vs.

DEFENDANT'S ANSWER

Defendant's Name

Defendant's address

Defendant.

I, the Defendant, answers the Complaint as follows:

I ask the Court to:

I swear that the information contained in the foregoing Answer is true and correct to the best of my information and belief.

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)

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO
(#1 - Your county name here)

Plaintiff

vs.

Defendant

Case No.

AFFIDAVIT OF INABILITY TO
PREPAY OR GIVE SECURITY
FOR COSTS
(Sec. 2323.31 Revised Code)

STATE OF OHIO

_____ COUNTY, SS:

I, the undersigned, a party in the above captioned case, being first duly sworn, represent to the Court that I am unable either to prepay or give security for costs in this action and request the Clerk to accept the attached pleading herein without prepaying or giving security for costs as provided by Sec. 2323.31 of the Revised Code.

In support of this request, I submit answers to the following questions:

1. What is your age? _____ years old.
2. Do you have any children? _____, If so, give names and ages:

3. What is your occupation or business? _____

4. Are you employed? _____. If so, give name and address of your employer:

5. What did you earn during the past year? \$ _____

6. What are your parents' names and ages? _____

7. Do you own any real estate? _____. If so, give its value \$ _____

Is it mortgaged? _____. If so, give the amount of mortgage \$ _____

8. Do you own an automobile? _____. If so, what is the value \$ _____

9. What other items of personal property do you own? _____

What debts are against it? _____

10. Have you made an advance payment to your attorney for his services in this case? _____. If so, how much \$ _____ Who paid it? _____

11. Do you have any securities or bank accounts? _____. If so, give its value: \$ _____

12. Are you receiving public assistance? _____. If so, what kind? _____

How much \$ _____

(Your signature - SIGN IN FRONT OF NOTARY)

STATE OF OHIO

_____ COUNTY, SS:

Before me, a notary public, in and for said county and state, personally appeared who being first duly cautioned and sworn, says that the facts in the foregoing affidavit are true.

NOTARY PUBLIC