

Instructions: Answering a Complaint

These forms were prepared by the Justice & Diversity Center, a nonprofit organization, and are not official court forms. The forms in this packet can be used to file an Answer to a Complaint filed in the Northern District of California.

Checklist

This packet is available in a fillable pdf version on the Court's website at www.cand.uscourts.gov/Legal-Help-Center-Templates. This packet includes these forms:

- Answer
- Certificate of Service

General Instructions

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

1. You get legal advice from a lawyer. There are services in the Northern District that provide free legal information and advice, but not representation, to people without lawyers. If your case is in the San Francisco or Oakland federal courthouse, you may make an appointment with the **Legal Help Center** by calling **415-782-8982** OR sign up at 450 Golden Gate Ave., 15th Floor, Room 2796, S.F. OR 1301 Clay Street, 4th Floor, Room 470S, Oakland.

If your case is in San Jose, you may make an appointment with the **Federal Pro Se Program** by calling **(408) 297-1480** OR by signing up at 280 South First Street, 2nd Floor, Room 2070, S.J. OR 152 North 3rd Street, 3rd Floor, S.J.

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

B. After you receive a Summons and Complaint, you must file a written response, either an Answer or a motion challenging the Complaint. **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.

C. Fill out the Answer and Certificate of Service **completely**. Be sure to sign and date each form.

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. 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.

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. 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 allegation. In this 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

Read each paragraph of the Complaint carefully. Each paragraph should be numbered.

- 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.
- If everything in the paragraph is **true**, write that paragraph number in Section B of this Answer form.
- 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.

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 may have because you might not be able to raise them later.** The purpose of affirmative defenses is to give the Plaintiff enough notice of the defenses you plan to raise at trial, so he or she can prepare counterarguments. 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. A list of common affirmative defenses is found in Rule 8(c) of the Federal Rules of Civil Procedure.

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. Before allowing Plaintiff to take the class, Defendant 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." During a lesson, a big wave caused Plaintiff to hit his head on his surfboard. Plaintiff sued Defendant for his injury. 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.

3. 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. You can also use a Crossclaim to bring in a new party to the existing lawsuit. If you want to make a Counterclaim or Crossclaim, you should do so here. In the caption page, be sure to check the box for "Counterclaim" or "Crossclaim." Some Counterclaims must be filed at the same time the Defendant files his or her Answer. See Rule 13 of the Federal Rule of Civil Procedure and Chapter 10 of the Handbook for Pro Se Litigants for more information on Counterclaims and Crossclaims.

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

- 22 **1. Responses to the Claims in the Complaint**
- 23 *Each paragraph of the Complaint should be numbered. Read each paragraph carefully.*
- 24 • *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.*
 - 25 • *If everything in the paragraph is **true**, write that paragraph number in Section B, below.*
 - 26 • *If you **don't know** whether the paragraph is true or not, write that paragraph number in Section C, below.*
 - 27 • *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.*
 - 28 • *Use more pages if needed.*

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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:

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

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

Paragraph ____: I admit only that _____

Paragraph ____: I admit only that _____

Paragraph ____: I admit only that _____

Paragraph ____: I admit only that _____

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2. Affirmative Defenses

State any factual or legal reasons that the Plaintiff cannot win all or part of this case, even assuming that everything the Plaintiff said in the Complaint is true. Provide enough detail so the Plaintiff knows why you are raising the defense. Look at the instruction sheet of this form for examples. See Rule 8(c) of the Federal Rules of Civil Procedure for a list of affirmative defenses. Make sure that you list every affirmative defense you may have. Use more pages if needed.

Affirmative Defense 1. _____

Affirmative Defense 2. _____

Affirmative Defense 3. _____

Affirmative Defense 4. _____

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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: _____