



United States District Court  
Southern District of New York

# For Pro Se Defendants: HOW TO FILE AN ANSWER AND NOTICE OF APPEARANCE

This guide is intended to be a summary of basic procedures for answering a complaint and filing a Notice of Appearance. The statements in this guide do not constitute legal advice and may not be cited as legal authority. This guide does not take the place of the Federal Rules of Civil Procedure, this court's Local Civil Rules, or the individual rules of practice and orders of the judges of this court. Parties using this guide remain responsible for complying with all applicable rules of procedure.

## The Answer

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### What is an Answer?

- An answer is a formal written response to the plaintiff's complaint in which the defendant responds to all of the allegations in the complaint and sets forth any defenses to all or part of plaintiff's claims.
- An answer is filed by the defendant after the defendant has been served with a copy of the complaint.

### When is the Answer due?

- If you have been served with a summons and complaint, you have twenty-one (21) days to file an answer. The United States government, its agencies, and employees have sixty (60) days to file an answer. *See* Rule 12 of the Federal Rules of Civil Procedure.
- If you have waived formal service of the summons and complaint by completing a waiver of service form sent to you by the plaintiff or the United States Marshal Service (USMS),<sup>1</sup> you have sixty (60) days from when the waiver was sent to you to file an answer (or ninety (90) days if the defendant was sent the waiver outside of the United States). *See* Rule 4(d) of the Federal Rules of Civil Procedure.

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<sup>1</sup> The United States Marshal Service (USMS) is responsible for effectuating service of process on behalf of plaintiffs who have *in forma pauperis* status. *See* Rule 4(c)(3) of the Federal Rules of Civil Procedure.



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- If you do not file an answer within the required time period, you may be in default, and the plaintiff may be able to obtain a default judgment against you.
- If you need more time to file your answer, you should ask the plaintiff (or plaintiff's attorney if the plaintiff is not appearing *pro se*) to consent to an enlargement of time. *See* Rule 6 (b). If the plaintiff will not consent, you can make a motion for an enlargement of time. Check your Judge's Individual Practice for further guidance on making a motion.

### **What should the Answer say?**

- In your answer, you must deny each statement in the complaint that is untrue and admit each statement that is true. *See* Rule 8(b) of the Federal Rules of Civil Procedure.
- If you do not have sufficient information either to admit or deny a statement in the complaint, you must still respond to that statement. An appropriate response may be that you "do not have sufficient information or knowledge to admit or deny" the statement in the complaint. Please note that any statement in the complaint not specifically denied will be deemed admitted.
- In addition to admitting or denying the allegations in the complaint, include in your answer any legal defenses you may have. *See* Rule 8(c) of the Federal Rules of Civil Procedure. A legal defense is one in which, even assuming the truth of plaintiff's allegations in the complaint, the law does not permit the plaintiff to win the case.
- Take care in deciding whether or not to raise a defense. Rule 12(b) of the Federal Rules of Civil Procedure states that certain defenses may be waived if you fail to raise them in the answer or a pre-answer motion. In other words, if you do not raise a legal defense in your answer, you may not be able to raise it later in the case.

### **Can I raise claims against the plaintiff in my Answer?**

- Yes. You may also include in the answer any counterclaims you may have against the plaintiff. *See* Rule 13 of the Federal Rules of Civil Procedure.
- A counterclaim is a claim that a defendant has against a plaintiff that arises out of the same events or transactions. The answer should also include any claims you may have against other defendants, called crossclaims, or any claims you may have against someone not already in the lawsuit, called third-party claims. *See* Rule 14 of the Federal Rules of Civil Procedure.



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## **Filing and Service of the Answer**

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- Before filing your answer, you must send a copy to the plaintiff (if plaintiff is appearing *pro se*) or plaintiff's attorney (if plaintiff is represented by counsel).
- To file your answer, you may deliver it in person or send it by mail to the Pro Se Intake Unit at the addresses below or by email at [ProSe@nysd.uscourts.gov](mailto:ProSe@nysd.uscourts.gov).
- You must attach a completed [Certificate of Service](#) to the original answer you file with the court.
- If you would like to receive court documents by email, you must complete and email a [Consent to Electronic Service](#). If you would like to file documents electronically using the PACER system you may file [a motion for permission for electronic case filing](#).

## **Notice of Pro Se Appearance**

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- If you are appearing *pro se* (without an attorney), you must file a [Notice of Pro Se Appearance](#).
- This form 1) informs the court that you are appearing *pro se*, without a lawyer; 2) provides your contact information to ensure that all relevant court documents are mailed to you; and 3) will alert the court to send you informational materials.
- You must send copies of the Notice of Pro Se Appearance to the other parties (if they are appearing *pro se*) or their attorneys (if they are represented by counsel).
- You must attach a completed [Certificate of Service](#) to the Notice of Appearance you file with the court and deliver it in person or send it by mail or email to the Pro Se Intake Unit for filing.

## **Mailing and in-person addresses for submitting paperwork**

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Daniel Patrick Moynihan  
Courthouse, Pro Se Intake Unit  
500 Pearl Street, Room 205  
New York, NY 10007

Charles L. Brieant, Jr.  
Courthouse  
300 Quarropas Street  
White Plains, NY 10601

If you have any questions, please contact the Pro Se Intake Unit, (212) 805-0175, during business hours, 8:30am - 5:00pm, Monday - Friday (except federal holidays). Please note that the *Pro Se* Office cannot accept collect calls.