



FOR PRO SE DEFENDANTS: “I’VE BEEN SUED. WHAT NOW?”

Am I required to respond to a summons and complaint?

Yes. When you are served with a complaint and summons, you become a defendant in a lawsuit. Defendants must file a written response to the lawsuit within a specific time period after being served.

It is very important that you respond to the complaint by the deadline or else the plaintiff can seek a default judgment against you, which means that the plaintiff can win the case and collect a judgment against you without ever having the Court consider the claims in the complaint.

How much time do I have to respond to a summons and complaint?

The summons you received will say how much time you have to respond. The time you have to file a response to a complaint depends on who you are and how you were served. For more information on when a response to a complaint is due, refer to the Court’s Handbook for Pro Se Nonprisoner Civil Actions and Federal Rule of Civil Procedure 12.

If you need additional time to respond to the complaint, you can file a motion asking an extension of time to respond. State in the motion if the plaintiff has agreed to the extension.

How do I respond to a summons and complaint?

Under Rule 12 of the Federal Rules of Civil Procedure, there are two ways for a defendant to respond to a federal lawsuit. You can (1) file an answer to the complaint; or (2) file a motion challenging some aspect of the complaint.

What is an answer?

An answer is a written response to the complaint. For guidance on how to prepare and file an answer, see the Court’s Handbook for Pro Se Nonprisoner Civil Actions, available on the Court’s website.

Why would I file a motion instead of an answer?

You may have the option to challenge the complaint by filing one of the motions specified in Rule 12 of the Federal Rules of Civil Procedure instead of filing an answer. Rule 12(b) lists the following defenses that a defendant can raise in a motion to dismiss the complaint or any individual claim:

- Lack of subject matter jurisdiction: the defendant argues that the Court does not have the legal authority to hear the kind of the lawsuit the plaintiff filed.
- Lack of personal jurisdiction over the defendant: the defendant argues that he or she has so little connection with the district in which the plaintiff filed the case that the Court has no legal authority to hear the case.
- Improper venue: the defendant argues that the plaintiff filed the lawsuit in the wrong geographical location or place.
- Insufficiency of process or insufficiency of service of process: the defendant argues that the plaintiff did not prepare the summons correctly or did not correctly serve the defendant.
- Failure to state a claim upon which relief can be granted: the defendant argues that, even if everything stated in the complaint or counterclaim is true, the plaintiff did not violate the law.



- Failure to join an indispensable party under Federal Rule of Civil Procedure 19: the defendant argues that the plaintiff failed to sue someone who must be included in the lawsuit before the Court can decide the issues raised in the complaint.

If you file a Rule 12 motion, you will not need to file your answer until after the Court decides your motion.

Can I change my answer after I file it?

If less than 21 days have passed since you served the answer: you may amend, or change, your answer without getting permission from the Court or from the plaintiff. See Rule 15(a)(1) of the Federal Rules of Civil Procedure.

If more than 21 days have passed since you served the answer, you may amend your answer by getting written permission from the plaintiff.

If the plaintiff does not give you permission to amend your answer, you can file a motion with the Court asking for permission to amend your answer. Write your amended answer and attach it to the motion to amend. The motion to amend should state specifically what you have changed in your answer and that you are requesting permission from the Court to change your answer as attached. If the Court grants the motion, you will be allowed to file the amended answer.

An amended answer will replace the original answer. Answers must be amended in accordance with Local Rule 15.01.