

HOW TO PREPARE AND SEND AN ANSWER/RESPONSE TO COMPLAINT/PETITION

What is an *Answer/Response to Complaint/Petition*?

- It is your written response to the claims in the Plaintiff/Petitioner's Complaint/Petition.
- The Plaintiff/Petitioner is the person or company suing you and is named first in the court papers.
- The Complaint/Petition is the document that the Plaintiff/Petitioner filed and served upon you with the *Summons*. The Complaint/Petition explains the reasons the Plaintiff/Petitioner is suing you.
- Your *Answer/Response to Complaint/Petition* tells the court whether you agree or disagree with the Plaintiff/Petitioner's reasons for suing you.

Is there a deadline for filing an *Answer/Response to Complaint/Petition*?

Yes. The *Summons* you received will tell you the deadline for filing your *Appearance* and *Answer/Response to Complaint/Petition*. For instructions on how to file your *Appearance* see also *How to File an Appearance* at: <http://www.illinoiscourts.gov/Forms/approved/>.

- Your *Answer/Response to Complaint/Petition* is usually due at the same time as your *Appearance*.
- The *Summons* might give you a specific time frame for filing your *Answer/Response to Complaint/Petition*: – for example, within 7 or 30 days of when you received the Plaintiff/Petitioner's Complaint/Petition.
- If the lawsuit is for money and involves more than \$10,000 and up to \$50,000, the *Summons* will tell you to appear in court at a specific date and time. You must file your *Answer/Response to Complaint/Petition* within 10 days of the date you appear in court.

Please be aware that if you have a legal reason to challenge the way the *Summons* and Complaint/Petition were received by you (service of process), or a legal reason to have the Complaint/Petition dismissed, you need to file a *Motion* before you file your *Answer/Response to Complaint/Petition*. [735 ILCS 5/2-301](#); [735 ILCS 5/2-615](#). You should consult with an attorney about whether you have a legal reason to challenge how the Complaint/Petition was received or whether you have a legal reason to have it dismissed. The blank *Motion* form can be found at: <http://www.illinoiscourts.gov/Forms/approved/>.

Does everyone who receives a *Summons* and Complaint/Petition have to file an *Answer/Response to Complaint/Petition*?

There are two kinds of cases where you must appear in person but are not required to file a written *Answer/Response to Complaint/Petition*:

- The lawsuit is for money and involves \$10,000 or less

(this is called a small claims case).

- An eviction lawsuit (also called Forcible Entry and Detainer).

Although you are not required to file an *Answer/Response to Complaint/Petition* before you go to court for these types of cases, the judge might order you to file an *Answer/Response to Complaint/Petition* after you go to court.

Where can I find the forms I need?

You can find the forms at:

<http://www.illinoiscourts.gov/Forms/approved/>

What costs will I need to pay to file my *Answer/Response to Complaint/Petition*?

- You may be required to file an *Appearance* at the same time you file your *Answer/Response to Complaint/Petition*. There is a fee for filing the *Appearance*. An *Appearance* form can be found at: <http://www.illinoiscourts.gov/Forms/approved/>.
- Some courts do not require an *Appearance*. If your court does not require an *Appearance*, you will be charged an *Appearance* fee for filing your *Answer/Response to Complaint/Petition*.
- If you cannot afford to pay the filing fee, you can ask the court to file for free. Fill out the *Application for Waiver of Court Fees* to ask the court for a fee waiver. This is a separate set of forms you can find at: <http://www.illinoiscourts.gov/Forms/approved/>.

What happens if I am required to file an *Answer/Response to Complaint/Petition* but I don't?

The judge will find you in default and may rule in favor of the Plaintiff/Petitioner.

What if I think I may have Affirmative Defenses or Counterclaims?

An affirmative defense is a legal reason why you are not responsible to the Plaintiff/Petitioner. If you have affirmative defenses, you have to include them in your *Answer/Response to Complaint/Petition*. Examples of affirmative defenses include:

- that the Plaintiff/Petitioner waited longer than the law allows to file the Complaint/Petition; OR
- that the claim was already brought and resolved by another, earlier judgment. [735 ILCS 5/2-613](#)

These are just a few examples of affirmative defenses. Counterclaims are legal claims that you have against the Plaintiff/Petitioner regarding the issues in this case.

The counterclaim must be filed at the same time as your *Answer/Response to Complaint/Petition*. [735 ILCS 5/2-608](#).

You may want to consult with a lawyer about whether you have affirmative defenses or counterclaims.

What do I do after I fill out the *Answer/Response to Complaint/Petition* form?

Step 1: File your *Answer/Response to Complaint/Petition* with the Circuit Clerk in the county where the court case is filed.

- You must electronically file (e-file) court documents unless (1) you are an inmate in a prison or jail and you do not have a lawyer, or (2) you qualify for an exemption from e-filing.
 - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer, (2) you have a disability that keeps you from e-filing, or (3) you have trouble reading or speaking in English.
 - Fill out a *Certification for Exemption from E-Filing* found here: www.illinoiscourts.gov/Forms/approved/default.asp.
 - File the original and 1 copy of your *Answer/Response to Complaint/Petition*, and the *Certification*, with the Circuit Clerk's office in person or by mail.
- To e-file, create an account with an e-filing service provider.
 - Visit <http://efile.illinoiscourts.gov/service-providers.htm> to select a service provider. Some service providers are free while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileLL, see the self-help user guides here: http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented_Litigants/self-represented.asp
- If you do not have access to a computer or if you need help e-filing, take your form to the Circuit Clerk's office where you can use a public computer terminal to e-file your form.
 - You can bring your form on paper or saved on a flash drive.
 - The terminal will have a scanner and computer that you can use to e-file your form.

Step 2: Send a copy of your *Answer/Response to Complaint/Petition* to the other parties.

- You must send your *Answer/Response to Complaint/Petition* to the other parties in the case. If a party has a lawyer, send the *Answer/Response to Complaint/Petition* to the lawyer.
- You may send *Answer/Response to Complaint/Petition* to the other parties by personal hand delivery, by mail, third-party commercial carrier (for example, FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider. You may e-mail your *Answer/Response to Complaint/Petition* to a party

if they have listed their e-mail address on a court document. Complete the proof of delivery with information to show how you sent the *Answer/Response to Complaint/Petition* to each party. The *Answer/Response to Complaint/Petition* has room for 3 parties. If you are sending *Answer/Response to Complaint/Petition* to more than 3 parties, fill out and file one or more *Additional Proof of Delivery* forms with your *Answer/Response to Complaint/Petition*.