

Overview – Answering a Civil Complaint

General Information:

Answering a Civil Complaint (formerly called a Civil Writ or Civil Writ of Summons) is not difficult. Electronic filing has made the process much simpler for the filer. However, while the process for *answering* a Civil Complaint is not complicated, managing the case through the court process can be difficult and is more difficult than the small claims process. While the small claims process is designed for self-represented litigants who are not attorneys, the civil complaint process is not. Though an attorney is not required to answer or defend a civil case in the Circuit Courts of New Hampshire, because of the complexities of the process, many people find it helpful to enlist the services of an attorney licensed to practice in the State of New Hampshire. See the same screen you accessed this Overview for possible legal assistance.

An Answer to a Civil Complaint must be filed within **30 days** of the date that you were served with the Civil Complaint. In addition to an Answer (or other responsive pleading which will be discussed below) you **MUST** file an Appearance. An Appearance is a court document which contains your contact information. Failure to file either the Answer or Appearance could result in the court issuing an adverse decision against you.

When filing your Answer, you are required to respond to ***each and every*** allegation contained in the Civil Complaint. You may not simply deny each paragraph generally. You must state in short and plain terms your answer to each paragraph. You may admit or deny the allegations so long as you state your defense(s). You may also indicate that you do not have sufficient information to form a belief as to the truth of an allegation if such is the case. You may deny part of an allegation and admit another part as well. If you do not deny or explain a specific allegation as part of your Answer, the allegation in the Civil Complaint will be deemed admitted.

The electronic filing process will assist you with your Answer and will ask a series of questions and present you with each allegation in the Complaint to ensure that you answer each allegation.

If the damages claimed by the Plaintiff exceed \$1,500.00 you are entitled to request a trial by jury. Because the Circuit Court does not have jury trials, the case will then be transferred to the Superior Court in the county where the Circuit Court is located. To preserve that right to a jury trial, you must make your request on your Answer.

Instead of an Answer, you may file a Motion to Dismiss along with your Appearance. An Appearance is still required. The motion to dismiss may be based upon a lack of personal jurisdiction, sufficiency of process, etc. If your motion to dismiss is granted, the case goes away. If it is denied, you must file an Answer within 30 days of the court's notice of decision denying the motion.

Certain facts can provide what are called "affirmative defenses." If you have an "affirmative defense" you must state that in a motion to dismiss or in your answer. Affirmative defenses are listed in District Division Civil Rule 3.9. They include:

(1) accord and satisfaction;	(2) arbitration and award;
(3) assumption of risk;	(4) contributory negligence;
(5) duress;	(6) estoppel;
(7) failure of consideration;	(8) fraud;
(9) illegality;	(10) injury by fellow servant;
(11) laches;	(12) license;
(13) payment;	(14) release;
(15) res judicata;	(16) statute of frauds;
(17) statute of limitations; and	(18) waiver.

If you do not raise an affirmative defense in a motion to dismiss or in your Answer, you will be deemed to have waived it.

There are other rules surrounding your Answer or Motion to Dismiss which you should review. Failure to follow the court rules may impact your case in a negative way.

You will also be asked as part of the Answer process if you have a counterclaim against the other party. If you have a claim which arises out of the same transaction or occurrence that is the subject matter of the Complaint, you must file your Counterclaim as part of the Answer. If you have another claim against the other party that does not arise out of the same transaction or occurrence, you may also file it as a counterclaim. There are also rules surrounding the filing of a claim against a third party who is not yet part of the action. See District Division Civil Rules.

Within 20 days of the date that your Answer is due, you may confer with the other party about the case. The court will set the case for a case structuring conference which will provide you and the other party with the opportunity to discuss the case in court. You will also have access to a court mediator to assist with resolving the case if you choose to do so. If you are not able to resolve the case the court will hold a hearing and issue an order setting forth how the case will proceed through the court process.

For Further Information:

If you have questions, please contact the Information Center at 1-855-212-1234.