

INFORMATION SHEET: CIVIL CASE DEFENDANT

ANSWER REQUIREMENT:

As a defendant, you usually must file an answer with the court within 20 days from receiving the complaint and summons (30 days if service is accepted by agent or attorney-in-fact authorized to accept service). If you are a defendant in a case involving wrongful occupation or residential property or unlawful entry or detainer, you must file your answer within 5 days of service of the summons and complaint. You must also provide a copy of your answer to the plaintiff by first-class mail or personally.

ANSWER OPTIONS:

1. ***If You CONFESS Judgment*** (tell the court you agree to judgment for the plaintiff, without a trial), judgment will be granted in favor of the plaintiff. Any payments or payment schedules must be arranged between you and the plaintiff, but you must pay **COURT COSTS TO THE COURT**. On the 21st day from the date you confess judgment, the plaintiff has the right to have the Magistrate Court Clerk to take steps to collect in full.
2. ***If you DENY or ADMIT the Matters Set Forth in the Complaint*** (but do not confess judgment), a trial will be scheduled. If you have a counterclaim, (any claim that you have against the plaintiff within the jurisdiction of magistrate court), it should be stated in the middle section of the answer form (under “and further states”). No fee is required. No reply by the plaintiff is required. The plaintiff’s original claim and your counterclaim will be heard at the same trial. You and the plaintiff may still reach an out-of-court settlement before the trial date. If you are one of two or more defendants in a claim involving the same transaction or occurrence, in the same case you may file a cross-claim against another person. Your cross-claim may be included in your answer. You may also file a third-party complaint against someone not named in the complaint against you as being responsible for the plaintiff’s damages. A fee for service of process on the third-party may be required, but no filing fee is required.
3. ***If you ADMIT IN PART AND DENY IN PART the Matters Set Forth in the Complaint***, a trial will be scheduled. You and the plaintiff may still reach an out of court settlement before the trial date.
4. ***If you FAIL TO ANSWER***, or defend against the complaint, you will be in default and a judgment by default may be rendered against you by the magistrate. The plaintiff has the right to appear 21 days from service (or 31 days if service is on an agent or attorney-in-fact authorized to accept service) and file an affidavit for default judgment. If the plaintiff fails to file for default judgment within 6 months of service, this case will be dismissed without prejudice. Without prejudice means that the plaintiff would be permitted to file a complaint on the same claim at a later date.
5. ***You May ELECT a Jury Trial***, if the claim against you is at least \$20 or involves possession of real estate. If you wish to elect a jury trial, you must do so in writing within 20 days after you serve your answer or, in a wrongful occupation and unlawful entry and detainer case, within 5 days after you receive the summons and complaint. The written request is to be sent or delivered to the magistrate court.