

Answering a Civil Summons and Complaint Checklist

An Answer is a written response by a Defendant to a civil Summons and Complaint.

This is a basic checklist for answering a civil Summons and Complaint in North Dakota State District Court.

If you're unsure how to proceed, or if you have any doubts about whether it's proper for the Plaintiff to sue you in North Dakota, consult a lawyer **Immediately**, and **Before** you serve or file any written response, Answer, Counterclaim or any other court paper.

You must serve a copy of your Answer on each Plaintiff **within 21 days after the date you were served** the Summons and Complaint.

This isn't a complete statement of the law.

The "[Answering a Summons and Complaint](#)" section of the [ND Legal Self Help Center webpage](#) has more information and resources, including general-use answer forms.

Unauthorized Practice of Law - Caution!

This checklist may be used by a Defendant who is a **human being**, also known as a **natural person**. A human being can perform the functions of a lawyer for themselves at their own risk. This is called legal self-representation.

This checklist **can't be used** on behalf of a Defendant who is an **artificial person**, also known as **an entity created by law**. An artificial person includes, but isn't limited to, businesses, corporations, and limited liability companies. In general, an artificial person **can't** be represented in a North Dakota state district court by a non-lawyer. This is called unauthorized practice of law (UPL).

If the Defendant is an artificial person, consult a lawyer licensed to practice in North Dakota. Contact the State Bar Association of North Dakota Lawyer Referral Service at (866) 450-9579. An online directory of all lawyers licensed to practice in North Dakota is available at ndcourts.gov/lawyers.

What is a Civil Action?

A civil action is a court case involving non-criminal, or civil, matters.

In general, a civil matter is a private dispute or issue between people or organizations. When a civil matter is brought in state court, it's called a civil action.

Civil actions may also be called civil cases.

The [Guide to a Civil Action or Civil Case](#) on the ND Legal Self Help Center webpage has additional information and resources.

Why Isn't the Case Number on the Summons and Complaint (or Petition)?

When you're served the Summons and Complaint (or Petition), the documents won't have a case number. **In North Dakota, a civil case starts with service of a Summons and a copy of the Complaint (or Petition) on the Defendant. A Summons and Complaint (or Petition) aren't required to be filed to start a civil case.** You and the clerk of court won't be able to find a case number in North Dakota State District Court case files.

- **The Plaintiff can't file the Summons and Complaint (or Petition)** until the Plaintiff gets proof of service that they served copies on the Defendant. The Summons and Complaint (or Petition) and proof of service are then filed together and a case number is assigned.

If you want to take part in the case, you must serve your written Answer to the Summons and Complaint (or Petition) within 21 days after you were served. You serve your written Answer to the Summons and Complaint (or Petition) without a case number.

- If you don't serve your written Answer within **21 calendar days after the date you were served**, you may be found in default. This means you won't have a chance to take part in the case or be heard on the matter. The court may give the Plaintiff what they requested in the Complaint (or Petition) without your input.

Don't Wait to Serve Your Answer! If you wait until the Summons and Complaint (or Petition) are filed before serving your written Answer, you may miss your **21 day deadline**. If you miss your deadline, the Plaintiff is allowed to ask the court to find you in default.

Carefully Review the Summons and Complaint:

Carefully read the Summons, Complaint, and all papers you were served (*received*).

- The Summons tells you about the deadline to serve your written Answer to the Complaint, who to serve, and the consequences of missing the deadline.
- The Complaint lists the claims the Plaintiff is making against you.

Calculate the Deadline to Answer a Civil Summons and Complaint:

You, the Defendant, have twenty-one (21) days after you're served the Summons and copy of the Complaint to respond or "answer" the Complaint. Your answer **must** be in writing.

See [Rule 12 of the North Dakota Rules of Civil Procedure](#) for more information about timeframes for serving an Answer. See [Rule 6 of the North Dakota Rules of Civil Procedure](#) for more information about computing time.

☐ Date the Summons and Complaint were served on you, the Defendant: _____

☐ Using calendar days, calculate the date your written Answer must be served on the Plaintiff(s):

How to Calculate:

- Don't include the date you were served;
- Count ahead 21 days using calendar days. This means you count Saturdays, Sundays, and North Dakota state holidays; and
- If the 21st day lands on a Saturday, Sunday, or legal holiday, move ahead to the next day that isn't a Saturday, Sunday, or North Dakota state holiday.

Make a Copy of the Complaint to Mark-Up:

Make at least one copy of the Complaint. Using the checklists on the following pages, go through your working copy of the Complaint with a pencil and make notes. Note any points you want to make in your Answer.

Use your marked-up copy of the Complaint, and the following checklists, to help you organize and prepare your written Answer.

Jurisdiction:

For a Plaintiff to start a civil action, or case, they must show that North Dakota State District Courts have:

1. Subject matter jurisdiction; **and**
 - The North Dakota laws and/or rules that say the court can hear and make decisions about the case.
2. Personal jurisdiction.
 - The connection the Plaintiff(s) and Defendant(s) have to North Dakota.

(See the “Jurisdiction” section of the [Guide to a Civil Action, or Civil Case](#) for additional information and legal research resources for subject matter jurisdiction and personal jurisdiction.)

☐ Research the [laws and/or rules](#) the Plaintiff included in their Complaint.

☐ Do you agree that North Dakota State District Courts have **subject matter jurisdiction**?

☐ Yes ☐ No

If you **don’t** agree, explain why the laws and/or rules in the Complaint **don’t** give subject matter jurisdiction to North Dakota State District Courts:

☐ Do you agree that North Dakota State District Courts have **personal jurisdiction** over each of the parties in the civil case? ☐ Yes ☐ No

If you **don’t** agree, explain why North Dakota State District Courts **don’t** have authority over each of the parties. ([Rule 4 of the North Dakota Rules of Civil Procedure](#) gives the definition of a “person” and the requirements for exercising personal jurisdiction over a person):

Statute of Limitations:

Statute of limitations is the amount of time allowed by law that a Plaintiff can bring a claim in a civil case. If the time has passed, the Plaintiff can’t bring the claim.

☐ Start your statute of limitations legal research with [Chapter 28-01 of the North Dakota Century Code](#). If the civil case **doesn’t** relate to real estate, start your research with Section 28-01-16.

☐ The Section(s) of the North Dakota Century Code with the statute of limitation for this civil case is: _____ and the statute of limitations is _____ years.

☐ Do you agree that the Plaintiff started the civil case within the statute of limitations?

☐ Yes ☐ No

If you **don't** agree, explain why the Plaintiff didn't meet the statute of limitations to collect this debt:

Venue (Location of Civil Case within North Dakota):

The Plaintiff(s) must determine the proper county in North Dakota for the North Dakota State District Court to hear and decide the subject matter of the civil case. (See the [laws and/or rules related to the subject matter and/or North Dakota Century Code Chapter 28-04.](#))

☐ Do you agree that the North Dakota State District Court in _____ County is the proper county in North Dakota to hear and decide the subject matter of the case? ☐ Yes ☐ No

If you **don't** agree, what is the proper North Dakota county? _____

Explain why: _____

Admit, Deny, or Insufficient Knowledge:

For every claim in the Plaintiff's Complaint, your Answer must either:

1. Admit (*agree*);
2. Deny (*disagree*); or
3. State you don't have enough knowledge or information to admit or deny the claim.

(See [Rule 8\(b\) of the North Dakota Rules of Civil Procedure](#) for additional information.)

☐ Do you admit (*agree with*) any of the allegations (*claims*) listed in the Complaint?

List the specific paragraph numbers of the claims with which you **completely admit**:

- ☐ Do you deny (*disagree*) any of the allegations (*claims*) in the Complaint?

List the specific paragraph numbers of the claims with which you **completely deny**:

- ☐ Do you admit (*agree*) in part and deny (*disagree*) in part any of the allegations (*claims*) in the Complaint?

List the specific paragraph number of the claims you **admit in part and deny in part**. For each, explain the part of the claim you admit and the part of the claim you deny:

- ☐ Are there any allegations (*claims*) in the Complaint that you don't have enough knowledge or information to either admit (*agree*) or deny (*disagree*)?

List the specific paragraph number of the claims you can't admit **or** deny:

Affirmative Defenses:

An affirmative defense is a legal reason why the Plaintiff should lose, even if the Plaintiff's claims are true.

Affirmative defenses **must** be listed in the Answer. You may have more than one affirmative defense. It's also possible that you won't have any affirmative defenses.

You need to prove at trial all affirmative defenses you list in your Answer.

- ☐ Begin your research with [Rule 8](#), [Rule 9](#) and [Rule 12](#) of the North Dakota Rules of Civil Procedure for affirmative defense requirements.
- ☐ Do you have any affirmative defenses? List the affirmative defense in short, simple, and plain sentences describing the affirmative defense and demand for relief.

Following are some common affirmative defenses in civil cases. The following affirmative defenses **aren't all of the possible affirmative defenses**. You **must** research affirmative defenses more yourself.

- ☐ The North Dakota State District Court doesn't have subject-matter jurisdiction.

(See *Jurisdiction* section on page 3.)

- ☐ The Summons and Complaint weren't properly served.

(To decide if you were properly served, go to the [Service](#) link on the ND Legal Self Help Center webpage and scroll to "Service to Start a District Court Civil Action" for requirements for service of a Summons and Complaint.)

- ☐ The Plaintiff is suing the wrong person.

(Explain why you believe the Plaintiff is suing the wrong person. For example, victim of identity theft or mistaken identity.)

- ☐ A different court has already decided this claim.

(This affirmative defense may apply if the Plaintiff's claim(s) was already part of a different court case and that court reached a decision. Include a certified or authenticated copy of the order or judgment when you serve and file your Answer.)

- ☐ The Plaintiff didn't start the case before the statutes of limitations ran out.

(List the statute of limitation in your Answer. Include the Section of the North Dakota Century Code that applies, the timeframe, and a brief explanation why this affirmative defenses applies.)

- ☐ Other.

List all other affirmative defenses in short, simple, and plain sentences describing the affirmative defense and demand for relief: _____

Answer Requests:

You, the Defendant, must state what the Defendant wants the court to do, based on the responses in the Answer, and fully explain each request.

- ☐ List each request for relief, based on your responses in your Answer:

Counterclaim:

A Counterclaim is a written demand or request to the court for judgment granting the relief you, the Defendant, are seeking and allows you to bring claims against the Plaintiff. **You may not have any counterclaims.** If you don't have counterclaims, go to the next section.

- ☐ Research [Rule 13 of the North Dakota Rules of Civil Procedure](#) for Counterclaim requirements. (A Counterclaim must meet all the requirements of a Complaint.)

- ☐ Do you have any counterclaims? ☐ Yes ☐ No

If no, **don't** include a Counterclaim in your Answer.

If yes, list the counterclaim(s) and the specific [law or laws](#) that support each counterclaim:

- ☐ Do North Dakota State District Courts have **subject matter jurisdiction** over the Counterclaim?

List the specific [law or laws](#) that give North Dakota State District Courts authority to hear and determine and counterclaim: _____

- ☐ Do North Dakota State District Courts have **personal jurisdiction**?

Explain how the North Dakota State District Court has authority over each of the parties in the civil case. ([Rule 4 of the North Dakota Rules of Civil Procedure](#) gives the definition of a "person" and requirements for exercising personal jurisdiction over a person):

Counterclaim Requests:

You, the Defendant, must state what you want the court to do, based on the claims in your Counterclaim against the Plaintiff(s).

- ☐ List each request for relief, based on your counterclaims:

Create Your Documents to Answer a Civil Summons and Complaint:

☐ **Answer** (Used when you **don't** have counterclaims)

- ☐ Fill in the top of the [Answer](#) exactly as it appears on the top of the Summons
- ☐ List the paragraphs from the Complaint that you admit (*agree with*)
- ☐ List the paragraphs from the Complaint that you deny (*disagree with*)
- ☐ List the paragraphs from the Complaint that you admit **and** deny. Explain the part of the claim you admit and the part you deny
- ☐ List the paragraphs from the Complaint that you don't have sufficient knowledge to either admit or deny
- ☐ List your affirmative defenses, if any, in short plain sentences (*you may not have any affirmative defenses*)
- ☐ List your requests for relief, based on your Answer responses
- ☐ **Don't include** confidential information as required by [Rule 3.4 of the North Dakota Rules of Court](#)
- ☐ Signed and dated by you, the Defendant
- ☐ Make a copy for each Plaintiff, plus one copy to keep as a record. The original will be filed with the Court

or

☐ **Answer and Counterclaim** (Used when you **do** have counterclaims)

- ☐ Fill in the top of the [Answer and Counterclaim](#) exactly as it appears on the Summons
- Answer:
- ☐ List the paragraphs from the Complaint that you admit (*agree with*)
 - ☐ List the paragraphs from the Complaint that you deny (*disagree with*)
 - ☐ List the paragraphs from the Complaint that you admit **and** deny. Explain the part of the claim you admit and the part you deny
 - ☐ List the paragraphs from the Complaint that you don't have sufficient knowledge to either admit or deny
 - ☐ List your affirmative defenses, if any, in short plain sentences (*you may not have any affirmative defenses*)
 - ☐ List your requests for relief, based on your answer responses
- Counterclaim:
- ☐ Explain how the court has subject matter jurisdiction and personal jurisdiction
 - ☐ Explain how the North Dakota county is the proper venue for the civil case

- ☐ Describe the counterclaim(s) in short, plain statements showing you're entitled to relief
List your demands for relief, based on your Counterclaim
- ☐ **Don't include** confidential information as required by [Rule 3.4 of the North Dakota Rules of Court](#)
- ☐ Signed and dated by you, the Defendant
- ☐ Make a copy for each Plaintiff, plus one copy to keep as a record. The original will be filed with the Court

and

☐ **Confidential Information Form**

- ☐ Fill in the top of the [Confidential Information Form](#) exactly as it appears on the top of the Summons
- ☐ Fill in the full information that can't be included in documents filed with the Court ([See Rule 3.4 of the North Dakota Rules of Court](#))
- ☐ Make a copy to keep as a record, the original will be filed with the Court

Service of Answer *Or* Answer and Counterclaim:

You must arrange to serve a copy of your Answer (*or Answer and Counterclaim*) on each Plaintiff within twenty-one (21) days after you were served the Summons and Complaint. A completed and signed Declaration of Service, or Affidavit of Service, is proof that service occurred.

- ☐ Review service requirements in [Rule 5 of the North Dakota Rules of Civil Procedure](#). For more information **about service requirements after a civil case has started**, go to the [Service](#) link on the ND Legal Self Help Center webpage.
- ☐ Find the address for each Plaintiff, or, the Plaintiff's lawyer, if the Plaintiff is represented.
- ☐ Arrange for service of a copy of your Answer, and attachments (*if any*), on each Plaintiff.

If a Plaintiff is represented by a lawyer, arrange to serve the lawyer instead of the Plaintiff.

- ☐ For each Plaintiff, get the completed and signed Declaration of Service, or Affidavit of Service, showing the Answer was served.

Filing the Answer and Confidential Information Form with the North Dakota State District Court:

(See the “Filing Documents with the District Court” section of the [Guide to a Civil Action, or Civil Case](#) for additional information, including when a Defendant can file the Summons and Complaint.)

***** Filing a document isn’t the same as serving a document. Filing doesn’t meet the requirements for service. *****

You must file your original Answer, attachments (*if any*), Confidential Information Form, and proof of service of the Answer on each Plaintiff within a reasonable amount of time after being served the Notice of Filing the Summons and Complaint.

You’ll be required to pay a filing fee. **The filing fee for an Answer is \$100.00.**

If you can’t afford to pay the \$100.00 filing fee, you may ask to have the filing fee waived.

Forms and instructions are available at ndcourts.gov/legal-self-help/fee-waiver. File the request at the same time you file your Answer, Confidential Information Forms, and proof of service.

You must serve [Notice of Filing](#) the Answer on the Plaintiff.

****Disclaimer: The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state district courts. The information provided by the Center isn’t intended for legal advice but only a general guide to the civil court process. The Center can’t guarantee that all judges and courts will accept forms available through the Legal Self Help Center. The Center isn’t responsible for any consequences that may result from the information provided. The information can’t replace the advice of competent legal counsel licensed in the state. Use at your own risk.****