

## Instructions for Answer and Counterclaim – Civil Action, or Civil Case

\*\*\*Refer to the "[Answering a Civil Summons and Complaint Checklist](#)"\*\*\*

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 and Counterclaim on each Plaintiff **within 21 days after the date you were served** the Summons and Complaint.

ND Legal Self Help Center Staff and Court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, [consult a lawyer](#).

ND Legal Self Help Forms aren't official forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

Don't include this instruction sheet when you serve or file the completed form.

**All Forms Must be Filled out Completely!!** Don't leave any of the paragraphs within a form unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable."

If a form isn't completely filled out, it could result in the clerk not accepting your form for filing, or the court may send the form back to you to complete.

**Follow and Carefully Read All Instructions!** There are boxes () before each step. Check each box as you finish the step. Don't go on to the next step **until** the previous step is completed.

### 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.

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.

#### **Answer:**

An Answer is a written response by a Defendant to a Complaint. The Answer must also state defenses to each of the claims in short, plain statements.

- Complete the top of the Answer exactly as it appears in the Plaintiff's Complaint.
- Paragraph 1 states that you, the Defendant, disagree with every paragraph of the Plaintiff's Complaint, except as specifically stated in Paragraphs 2 through 6 of the Answer.
- If you agree completely with a paragraph of the Plaintiff's Complaint, type or print the paragraph number in Paragraph 2 of the Answer.
- If you both agree and disagree with a paragraph of the Plaintiff's Complaint, use Paragraphs 3 through 5 of the Answer to respond. For each paragraph of the Plaintiff's Complaint that falls into this category, explain what part of the paragraph is admitted and what part is denied.
- If you don't have enough information to agree or disagree with a paragraph of the Plaintiff's Complaint, type or print the paragraph number in Paragraph 6 of the Answer.

### **Affirmative Defenses:**

An affirmative defense is a legal reason the Plaintiff should lose, even if the Plaintiff's claims are true. For example, expiration of the time allowed by law to bring a civil action, or civil case, or statute of limitations, is an affirmative defense.

Affirmative defenses must be stated in the Answer. You, the Defendant, may not have any affirmative defenses.

- If you have any affirmative defenses, state the defenses in Paragraphs 7 and 8. Each defense is a separately numbered paragraph.
- See the [Appendix of Forms](#) for an example of presenting defenses in an Answer.

### **Counterclaim:**

A Counterclaim is a written demand or request to the court for judgment granting the relief the Defendant is seeking. A Counterclaim allows you, the Defendant, to bring claims against the Plaintiff.

Compulsory Counterclaims are claims that are related to the same transaction or occurrence as the claims in the Plaintiff's Complaint; and don't require adding another party over whom the court doesn't have jurisdiction. You might not have any compulsory counterclaims.

Permissive counterclaims are claims against the Plaintiff that aren't related to the same transaction or occurrence as the claims in the Plaintiff's Complaint. You might not have any permissive counterclaims.

- Type or print each claim in short, plain statements that show you're entitled to relief.

### **Answer and Counterclaim Requests:**

You, the Defendant, must state what you want the court to do, based on your Answer and based on the claims in your Counterclaim.

- Explain the requests fully.

### **Sign and Date the Answer and Counterclaim:**

- You, the Defendant, **must** sign and date the Answer and Counterclaim.

**Service:**

You must serve a copy of your Answer and Counterclaim on each Plaintiff within twenty-one (21) days after the date the Summons and Complaint were served on you. If you don't, the Plaintiff may ask the court for a default judgment against you.

In general, copies of documents filed, or intended to be filed, with the court must be provided to the other parties in the civil case. This is called service.

There are specific requirements for serving documents. [Rule 5](#) of the North Dakota Rules of Civil Procedure gives the requirements for service after a civil case has been started.

Proof of service is an important step in the legal process. An Affidavit of Service or Declaration of Service completed by the individual who served the copies of documents on the Plaintiff is proof that service occurred. The court **won't** act on papers filed with the court until proof of service is filed.

For information about service and proof of service in a civil case, go to the [Service](#) link on the ND Legal Self Help Center website in the "District Court Civil" section. Review the information and instructions in the "Service After a Civil Action Has Been Started" section.

*\*\*\*Disclaimer: The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state 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.\*\*\**

State of North Dakota

District Court

County of \_\_\_\_\_

\_\_\_\_\_ Judicial District

\_\_\_\_\_,  
Plaintiff

vs

\_\_\_\_\_.  
Defendant

)  
)  
)  
)  
)  
)  
)  
)

Case No. \_\_\_\_\_

**Answer and Counterclaim**

**Answer**

\_\_\_\_\_, the Defendant in this case, submits this Answer to the allegations in the Plaintiff's Complaint:

1. I deny each and every allegation in the Plaintiff's Complaint unless specifically admitted to below.

2. I admit to the allegations in the following paragraphs in the Plaintiff's Complaint:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. I admit part and deny part of the allegations in the following paragraph of the Plaintiff's Complaint: Paragraph No. \_\_\_\_ (Explain below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. I admit part and deny part of the allegations in the following paragraph of the Plaintiff's Complaint: Paragraph No. \_\_\_\_ (Explain below)

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5. I admit part and deny part of the allegations in the following paragraph of the Plaintiff's Complaint: Paragraph No. \_\_\_\_ (Explain below)

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6. I do not have sufficient knowledge to either admit or deny the allegations in the following paragraphs in the Plaintiff's Complaint:

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**Affirmative Defenses Pursuant to Rule 8 of the North Dakota Rules of Civil Procedure**

7. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**Counterclaim**

**Comes Now**, the Defendant, who in support of the claim for relief on the Counterclaim, shows to the court as follows:

1. The Defendant incorporates the paragraphs admitted to in the Answer into this Counterclaim and in this Counterclaim states the following:

2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

6. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

8. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**Therefore,** I request the following relief on the Answer and Counterclaim:

9. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.



10. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

11. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

12. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

13.  I also ask for any other relief the Court may determine to be just and equitable.

*(Choose if applicable.)*

Dated \_\_\_\_\_.

\_\_\_\_\_, Defendant  
*(Signature of Defendant)*

\_\_\_\_\_  
*(Printed Name of Defendant)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
*(City, State, Zip Code)*

Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_