

## **INSTRUCTIONS FOR FILING AND SERVING AN ANSWER TO A PETITION THAT HAS BEEN SERVED ON YOU.**

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It is very important to file a written answer to any legal action that is served on you if you want to respond to what the other side has requested in his/her petition. Filing an answer gives you the right to be notified of the hearing. If you fail to file a written answer, then you are telling the court that you are not contesting what the other side has requested and you are waiving your right to be notified by the Court of any court dates. Preparing an Answer and Counterclaim can be complicated. An attorney can answer any questions you have.

If you are served by the sheriff, special process server or acknowledge service of a petition, you normally have thirty days to file a written answer with the clerk of Superior Court in the County in which the original petition was filed. If you have been served by publication, then you have sixty days from the date the petition is first published in the legal newspaper to file a written answer. When you are served, a summons will be on the top of the petition. It will tell you how many days you have to file a written answer with the Court and on whom you must serve a copy of your answer.

### **INSTRUCTIONS FOR PREPARING AN ANSWER**

You can use the attached form Answer and Counterclaim to draft your answer and counterclaim.

#### **Step 1 : Review the Petition that was served on you.**

Review the petition that was served on you. It is sometimes helpful if you go through it with a pencil and make notes on whether you agree or disagree with what the other side has stated in his/her petition.

#### **Step 2: Prepare a Written Answer and/or Counterclaim to the Petition that was served on you.**

Insert the other side's name in the space above Petitioner, and your name as the Respondent.  
Insert the Civil Action File Number from the petition that was served on you.

In the blank after "Answer to," write the name of the petition that was served on you. If you do not want to file a counterclaim, strike through the word "Counterclaim."

Insert your name after the word "I".

Insert after "Petition for," the name of the Petition which was served on you. For example, "Petition for Divorce".

Then you must review each paragraph of the petition that was served on you and respond to each paragraph by either admitting it, denying it, or stating that you do not have sufficient knowledge to admit or deny. After you have responded to each paragraph, then you can either sign your answer, or you may decide that you want to counterclaim. If you choose to file a counterclaim, check the box before "Counterclaim". Then insert in the space provided the type of counterclaim you are seeking. For example, if you were served with a Complaint for Divorce, you may want to counterclaim for divorce so that you can make requests to the judge to award to you children, property, relief from payment of

debts, etc. You should speak with an attorney before filing a counterclaim to make sure that you have a proper counterclaim and if so, that you have included all of your requests.

Not all answers require a counterclaim. If you are prepared to file your answer, you may file it without a counterclaim, and later, after speaking with an attorney, add a counterclaim. However, be aware that some counterclaims may not be added later and that you may lose your right to add a counterclaim if you do not insert it in your Answer. You should always consult with an attorney if you think you have a counterclaim.

### **Step 3: Requests to the Court**

On page five (5) of the Answer after it says, "Wherefore, I request," please follow the instructions below.

In paragraph (a) insert the type of action that was served on you.

In paragraph (b) insert the type of counterclaim you are filing if you file a counterclaim.

In the following paragraphs insert the requests for relief you are asking the court to make.

Then sign your name in the space provided and print your name, address, and telephone number.

### **Step 4: Complete the Verification Form**

Complete the Verification Form. Insert the other side's name as Petitioner and your name as Respondent. Insert the civil action file number from the petition that was served on you. Then insert your name after the word "I." Insert in the space provided "Answer" ("and Counterclaim" if you are including a counterclaim). Fill in the date where indicated. Then insert your name, address and telephone number in the spaces provided. You will need to sign this Verification in the presence of a Notary Public. Most libraries and banks have a notary on staff and will notarize your document for a fee.

### **Step 5: Complete a Certificate of Service Form**

Complete the Certificate of Service Form. In the first blank insert the name of your  
Then in the second blank insert "Petitioner." If the other side is not represented by an attorney, you must mail him/her a copy of your answer. Check the first box. If the other side is represented by an attorney, then you must mail a copy of your answer to the attorney. Check the second box. Then write that person's name and address exactly as it is listed on the summons form that was served on you. In the space provided insert the date and sign your name and print your name and address.

### **Step 6: File your Answer**

Make three (3) copies of your documents. Take them to the docket clerk of Superior Court in the County where the original petition was filed. Give the clerk your original. Have the clerk stamp your copies. Keep one copy for yourself.

### **Step 7: Serve the other side's attorney (or other side if unrepresented) with a copy of your Answer.**

You must serve the other side with a copy of your Answer. Mail a copy of your Answer to the attorney representing the other side, or to the other side directly if he/she is not represented.

Send your Answer to the address stated in the Summons that was served on you with the petition. The Certificate of Service that you completed and filed with the court is your proof to the court that you did mail a copy of your Answer to the other side's attorney, or to him/her.

**Step 8: Timely appear at any hearing, mediation, or seminar required by the Court.**

Your failure to appear at any hearing or other activity scheduled by the Court on the date and time scheduled may, and often will, result in your claims being dismissed and the action proceeding without you. The result of your failing to appear as required could result in the granting of all relief requested by the Petitioner, an award of attorney's fees against you, incarceration for contempt, or other appropriate relief. DO NOT BE LATE OR MISS A COURT DATE.