



Federal *Pro Se* Clinic

CENTRAL DISTRICT OF CALIFORNIA: WESTERN DIVISION

▣ What Do I Do if I Have Been Sued? ▣

If you have been sued in federal court, you must file an official response to the complaint **within 21 days**. This means that you must file an official document (sometimes referred to as a “pleading”) directly with the court. **A telephone call, e-mail, or letter to either the court or the opposing party will not protect your rights.**

Respond in Time – 21 Days!

Your 21-day deadline starts running the day after you are served with the summons and complaint. Your official response is due to be filed, with the court, no later than the 21st day after service (counting weekends and holidays). If the 21st day falls on a Saturday, Sunday, or federal holiday, your response is due to be filed no later than the next business day. If you need more than 21 days to respond, please see Local Rule 8.3 to find out how to request an extension of time.

File the Correct Response

There are two types of responses you can file. One type of response is called an “answer,” in which you answer each one of the paragraphs and allegations in the plaintiff’s complaint. In your answer, you are also required to assert any affirmative defenses that you believe apply to the facts of your case.

Another type of response is called a “responsive motion,” which you can file if you believe there is a *legal* reason you should not have to respond to the complaint. For example, you might want to file a motion to dismiss if the plaintiff in your case did not file the complaint within the applicable statute of limitations period.

What if I was not served properly?

If you believe you were not served properly, you can raise that as a defense to the lawsuit by filing a motion to quash service. See Public Counsel’s “How to Submit a Motion” and Federal Rule of Civil Procedure 12(b)(5).

As an alternative, you can file an answer and assert *insufficient service of process* as an affirmative defense.

Either way, you should still make every attempt to respond to the complaint in a timely manner. If you need extra time to respond to the complaint, you should call the plaintiff’s attorney and try to work out an agreement whereby you agree to waive formal service in exchange for getting extra time to respond to the complaint (up to 60 days). See Federal Rule of Civil Procedure 4(d) for more information on how to do this.

NEVER IGNORE A LAWSUIT!

You must file *something* with the court or the plaintiff may seek a default judgment against you.

Prepare Your Response

If you wish to file an answer, consult Public Counsel's "How to File an Answer" guide. If you wish to file a responsive motion, refer to the following: (1) Federal Rule of Civil Procedure 12(b) to see the types of defenses that you can raise in a responsive motion; and (2) Public Counsel's "How to File a Motion" guide.

Also remember that the Local Rules for the Central District of California, which are available on the court's website, require you to file a Certification and Notice of Interested Parties, Form CV-30 (also available for download from the court's website), along with your answer or first responsive motion.

Raise Compulsory Counterclaims/Crossclaims Against Co-Defendants/Third Parties

If you answer the complaint, you must include any compulsory counterclaims. Compulsory counterclaims are claims that you want to bring against the plaintiff that arise out of the same events as those alleged in the plaintiff's complaint. Understanding when you must raise compulsory counterclaims is very important because you could lose your right to ever assert those claims if you do not raise them in a timely manner. Consult Federal Rule of Civil Procedure 13 for more information and see an attorney.

To protect your rights, you may also need to bring a lawsuit against other people or entities – not just the plaintiff who started the lawsuit against you. Because raising these types of claims can be complicated, you should consult an attorney and also look at Federal Rules of Civil Procedure 13 and 14 for the rules on bringing crossclaims and third party claims.