PRO SE OFFICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK MOYNIHAN UNITED STATES COURTHOUSE
500 PEARL STREET, ROOM 230
NEW YORK, NEW YORK 10007

Ruby J. Krajick
CLERK OF COURT

HOW TO FILE AN ANSWER

An answer is a formal written response to the plaintiff's complaint in which the defendant responds to all of the allegations in the complaint and sets forth any defenses to all or part of plaintiff's claims. An answer is filed by the defendant after s/he has been served with a copy of the complaint. If you have been served with a summons and complaint, you have twenty-one (21) days to file an answer. The United States government, its agencies, and employees have sixty (60) days to file an answer. See Rule 12 of the Federal Rules of Civil Procedure. If you have waived formal service of the summons and complaint by completing a waiver of service form sent to you by the plaintiff, you have sixty (60) days from when the waiver was sent to you to file an answer (or ninety (90) days if the defendant was sent the waiver outside of the United States). See Rule 4(d) of the Federal Rules of Civil Procedure. If you do not file an answer within the required time period, you may be in default, and the plaintiff may be able to obtain a default judgment against you.

In your answer, you must deny each statement in the complaint that is untrue and admit each statement that is true. See Rule 8 (b) of the Federal Rules of Civil Procedure. If you do not have sufficient information either to admit or deny a statement in the complaint, you must still respond to that statement. An appropriate response may be that you "do not have sufficient information or knowledge to admit or deny" the statement in the complaint. You should note that any statement in the complaint not specifically denied will be deemed admitted.

In addition to admitting or denying the allegations in the complaint, you should include in your answer any legal defenses you may have. See Rule 8(c) of the Federal Rules of Civil Procedure. A legal defense is one in which, even assuming the truth of plaintiff's allegations in the complaint, the law does not permit the plaintiff to win the case. You should be careful in deciding whether to raise a defense. Rule 12(b) of the Federal Rules of Civil Procedure states that certain defenses may be waived if you fail to raise them in the answer or a pre-answer motion. In other words, if you fail to raise a legal defense in your answer, you may not be able to raise it later in the case.

You may also include in the answer any counterclaims you may have against the plaintiff. See Rule 13 of the Federal Rules of Civil Procedure. A counterclaim is a claim that a defendant has against a plaintiff that arises out of the same events or transactions. The answer should also include any claims you may have against other defendants, called cross-claims, or any claims you may have against someone not already in the lawsuit, called third-party claims. See Rule 14 of the Federal Rules of Civil Procedure.

A sample answer form is attached as a guide, and an answer form is attached for your use. Before filing your answer, you must send a copy to the plaintiff (if plaintiff is appearing *pro se*) or plaintiff's attorney (if plaintiff is represented by counsel). To file your answer, you may deliver it in person or send it by mail to the *Pro Se* Office. You must attach a completed affirmation of service to the original answer you file with the court.

Note: *If you need more time to file your answer, you should ask the plaintiff (or plaintiff's attorney if the plaintiff is not appearing pro se) to consent to an enlargement of time. See Rule 6 (b). If plaintiff will not consent, you can make a motion for an enlargement of time (The Pro Se office has separate instructions for preparing a motion). You should check your Judge's Individual Practice for further guidance on making a motion.*

If you are appearing *pro se* (without an attorney), you must notify the Court and the other parties in writing. You must complete a Notice of Appearance form and send copies to the other parties (if they are appearing *pro se*) or their attorneys (if they are represented by counsel). You must then attach a completed affirmation of service form to the Notice of Appearance and deliver it in person or send it by mail to the *Pro Se* Office for filing. A Notice of Appearance form is attached for your use.

If you have any questions, please contact the *Pro Se* Office, (212) 805-0175, during business hours, 8:30am - 5:00pm, Monday - Friday (except federal holidays). Please note that the *Pro Se* Office cannot accept collect calls.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAMPLE]

Jane Doe

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

09 Civ. 1234 (ABC) (DE)

- against -

ANSWER

John Smith and Larry Jones

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I

ADMISSIONS AND DENIALS

In this section, state which factual allegations in the complaint you admit to and which factual allegations you deny. You should refer to the complaint paragraph by paragraph (and sentence by sentence within each paragraph), in the same order as the paragraphs and sentences appear in the complaint. Attach additional sheets of papers as necessary.

1. The defendant admits that he is a teacher at New York High School in New York City. The defendant does not know whether the other information in paragraph 1 of the complaint is true or false.

2. The defendant admits that this court has subject matter jurisdiction over this lawsuit.

3. The defendant denies that his principal place of business is in Brooklyn, New York.

4. The defendant admits the allegations in paragraph 4 of the complaint.

5. The defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 5 of the complaint.

II

DEFENSES

In this section, state any legal theories that, even assuming that what plaintiff has alleged in the complaint is true, do not permit the plaintiff to win the case. Attach additional sheets of paper as necessary.

FIRST DEFENSE:

This Court lacks venue over this action.

SECOND DEFENSE:

The statute of limitations bars this action in that the events described in the complaint occurred more than three years before the lawsuit was commenced.

WHEREFORE defendant asks this Court to dismiss the complaint and enter judgment in favor of defendant.

[If you have any counterclaim against the plaintiff that arises out of the same events or transactions stated in the complaint, and/or any crossclaims against the other defendants that arise out of the same events or transactions stated in this complaint, and/or any third-party claims you have against third-parties (that is, someone not already named in the lawsuit) that arise out of the same events or transactions stated in the complaint, you should attach additional sheets of paper to set forth the facts and bases for any such claims. See the Pro Se Manual for a further explanation.]

III

COUNTERCLAIMS

1. Plaintiff is the owner of a green and white Oldsmobile, New York license plate number 3G-R2D2.
2. On January 15, 2002, plaintiff was driving his Oldsmobile in a negligent manner and collided with defendant on Flatbush Avenue in Brooklyn, New York.
3. As a result of the collision defendant was knocked down, broke his arm and suffered great pain of body and mind.
4. As a result of the collision, defendant was prevented from teaching, his sole source of income, and incurred expenses for medical attention, hospitalization, and physical therapy in the sum of $175,000.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 1 day of July, 20 09.

Signature of Defendant /s/ John Smith

Address 35 Cherry Tree Lane

Bronx, New York 11112

Telephone Number (718) 555-0000

Fax Number (if you have one) _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____X

_____,

Plaintiff,

-against-

_____,

Defendant,

_____X

NOTICE OF APPEARANCE

Docket Number:

_____ Civ. _____ ( )

Please take notice that the undersigned _____
(*Your name*)

hereby appears Pro se in the above captioned matter and that all future correspondence and papers in connection with this action are to be directed to the undersigned.

Dated: _____
New York, New York

_____
Signature

_____
Address

_____
City, State, Zip Code

_____
Telephone Number

Rev. 05/2010