



USNYWD'S PRO SE HANDBOOK
CHAPTER 3: RESPONSES TO THE COMPLAINT
[ALL-IN-ONE DOCUMENT]

Pro Se Handbook
Chapter 3
Author: US District Court, New York, Western District
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E: TextBookDiscrimination@gmail.com
W: www.TextBookDiscrimination.com

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US DISTRICT COURT, NEW YORK, WESTERN DISTRICT

CHAPTER: 3 RESPONSES TO THE COMPLAINT

AUTHOR: US DISTRICT COURT, NEW YORK, WESTERN DISTRICT

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ITEMS: 3.01 through 3.02



3.01 | THE ANSWER

Once the summons and complaint is served, the defendant, in an ordinary civil case, will have twenty (20) days from the date of service of the complaint to file an "answer." The United States or a federal official will have sixty (60) days (except the Social Security Administration, which has 90 days). Just as the plaintiff in the complaint must make a short and plain statement of the claim, the defendant in the answer must state the defenses to the claim and either admit or deny the specific allegations contained in the complaint. As with the complaint and all other pleadings, a defendant must file the answer with the Clerk of Court and serve a copy on the opposing party. Failure to answer or otherwise defend in a timely fashion is grounds for judgment by default against the defendant (If a defendant fails to answer or otherwise defend, then see Federal Rule of Civil Procedure 55). It is important that a plaintiff state the allegations in simple separate numbered paragraphs, since the defendants will admit or deny allegations paragraph by paragraph. In that way, the Court and the plaintiffs can determine what allegations the defendants have admitted or denied.

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3.02 | MOTIONS AGAINST THE COMPLAINT

Although most defenses to a complaint must be asserted in the answer, a defendant has the option of asserting certain defenses in the form of a motion to dismiss the complaint before filing the answer. See Federal Rules of Civil Procedure 12(b). A motion is an application to the Court asking that the Court take some particular action in the case. Motions to dismiss the complaint typically make the following arguments:

- (1) the Court lacks the power to decide the subject matter of the case or to compel a defendant to appear;
- (2) service of process was not sufficient; or
- (3) the complaint fails to state a claim on which relief can be granted.

If such a motion is made by a defendant in your case, you will have ten (10) days after it is served in which to file a response (or some other amount of time to file a response as set by the Court). It is very important to respond to such motions to dismiss; otherwise, the case may be dismissed without your having an opportunity to present an argument to the Court.

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APPENDIX



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