

HOW TO PREPARE AN ANSWER AND COUNTERCLAIM TO AN ACTION THAT HAS BEEN SERVED ON YOU

The information is provided to assist you when you have been served with court papers that were filed in the Superior Court. You should consult with an attorney to make sure that your legal rights are protected.

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed. Courthouse personnel are prohibited by state law O.C.G.A. §15-19-51 from giving legal advice. Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

INSTRUCTIONS FOR FILING AND SERVING AN ANSWER & COUNTERCLAIM

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.

GENERAL COMMENTS

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 normally 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 "My name is".

Then you must review each paragraph of the petition that was served on you. Match the paragraph numbers from the Petition with the paragraph numbers on the answer. Respond to each paragraph by either admitting it, denying it, or stating that you do not have sufficient knowledge to admit or deny.

DEFENSES

In the paragraph called "Defenses" you can state any special reasons why the case should not be allowed to proceed (such as it is filed in the wrong county). You should talk to an attorney to get advice on possible defenses. If you do not properly raise a defense it may be lost.

After you have responded to each paragraph and included any defenses you may decide that you want to also include a counterclaim.

COUNTERCLAIM

If you choose to file a counterclaim, go to the section titled **COUNTERCLAIM**. A counterclaim is what you are asking for from the Petitioner. 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.

Check the appropriate boxes regarding jurisdiction or other issues. In the blank lines write out each thing you are requesting in your counterclaim and any other supporting information that may be needed.

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 include 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 the Answer after it says, "FOR THESE REASONS, I REQUEST THE FOLLOWING RELIEF" please follow the instructions below.

Check (a) if you have a signed settlement agreement.

In the following paragraphs insert the other things (the "relief") you are asking the court to grant (for example, "that I be awarded custody", that "the Petitioner pay me alimony.")

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

Step 4: Complete the Verification Form

Complete the attached Verification Form. Insert the other side's name as Petitioner and your name as Respondent. Insert the civil action number from the petition that was served on you. Then insert your name after the word "I, _____."

Insert in the next space "Answer and 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.

Step 5: Complete a Certificate of Service Form

Complete the attached Certificate of Service 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.

Check the first box if the other side is not represented by an attorney, you must mail him/her a copy of your answer.

Check the second box if the other side is represented by an attorney, then you must mail a copy of your answer to the attorney. (If you will be serving via the court's e-filing system, follow the Clerk's instruction for e-filing and e-service.)

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 and email if requested).

Step 6: File your Answer

Make copies of your documents. Serve one copy to the opposing party. This is normally done by mail. If you will be serving via the court's e-filing system, follow the Clerk's instruction for e-filing and e-service. Follow the Clerk's instruction for e-filing your Answer and Counterclaim. Keep one copy for yourself and remember you must mail or e-serve a copy to the other side.

The Certificate of Service that you will complete and file with the court is your proof to the court that you did serve a copy of your Answer and Counterclaim to the other side or his/her attorney.

Step 7: Timely appear at any hearing, conference 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 result in your claims being dismissed and the case proceeding without you including the entry of a judgment against you.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

Petitioner,

Civil Action

vs

Case Number _____

Respondent.

ANSWER AND COUNTERCLAIM

My name is _____ and I am representing myself in this action. In response to each of the numbered paragraphs of the Petitioner's Complaint or Petition, I state as follows:

(Check only one answer to match each paragraph of the Complaint or Petition; whenever you choose the partly true answer, you must explain on the lines about what is true and what is false.)

1. The allegations of Paragraph One are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

2. The allegations of Paragraph Two are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

3. The allegations of Paragraph Three are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

4. The allegations of Paragraph Four are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

5. The allegations of Paragraph Five are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

6. The allegations of Paragraph Six are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

7. The allegations of Paragraph Seven are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

8. The allegations of Paragraph Eight are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

9. The allegations of Paragraph Nine are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

10. The allegations of Paragraph Ten are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

11. The allegations of Paragraph Eleven are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

12. The allegations of Paragraph Twelve are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

13. The allegations of Paragraph Thirteen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

14. The allegations of Paragraph Fourteen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

15. The allegations of Paragraph Fifteen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

16. The allegations of Paragraph Sixteen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

17. The allegations of Paragraph Seventeen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

18. The allegations of Paragraph Eighteen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

19. The allegations of Paragraph Nineteen are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

20. The allegations of Paragraph Twenty are: ___ admitted as true ___ denied as untrue ___ neither admitted nor denied because I do not have enough information to know the truth of the matter ___ partly true and partly untrue, specifically as follows:

21. **Defenses** – In addition to my specific responses above, I have the following affirmative defenses to this action:

COUNTERCLAIM

22. **Jurisdiction and Venue:** I am the Respondent or Respondent in this action and:

[Check only one of the following, either (a) or (b).]

___ (a) I am a resident of the State of Georgia.

___ (b) I am not a resident of the State of Georgia, but the Petitioner or Petitioner is a resident of the State of Georgia.

The Petitioner or Petitioner has submitted to personal jurisdiction and venue by filing the Complaint or Petition.

23. **Service:** The Petitioner or Petitioner shall be served as provided under O.C.G.A. §9-11-5 (b), by hand delivery or mail to the address listed on the *Summons*.

FOR THESE REASONS, I REQUEST THE FOLLOWING RELIEF:

[Check all that apply]

____ (a) That I be granted _____

____ (b) That I be granted _____

____ (c) That I be granted _____

____ (d) That the Petitioner be ordered to _____

____ (e) That the Petitioner be ordered to _____

____ (f) That the Petitioner be ordered to _____

____ (g) _____

____ (h) _____

____ (i) That a Rule Nisi be scheduled by the Court to decide on the relief I have requested;

____ (j) That the Court order any and all other relief that the Court finds appropriate.

Dated: _____

Respondent, *Pro Se* *[signature]*

Name: _____

Address: _____

Email: _____

If you do not have an email address, fill out a certificate of no email address

Telephone No.: _____

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

Petitioner,

Civil Action

vs

Case Number _____

Respondent.

VERIFICATION

I, _____, personally appeared before the undersigned notary public and, being duly sworn, state that the facts stated in the foregoing _____ are true and correct.

This _____ day of _____, 20_____.

Signature _____

Name: _____

Address: _____

Email: _____

If you do not have an email address, fill out a certificate of no email address

Sworn to before me this

_____ day of _____, 20_____

Notary Public

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

Petitioner,

Civil Action

vs

Case Number _____

Respondent.

CERTIFICATE OF SERVICE

This is to certify that I have served the foregoing Answer and Counterclaim upon the Petitioner by placing a copy in the United States Postal Service, with postage prepaid.

- ___ 1. to the Petitioner who is representing him/herself without an attorney OR
- ___ 2. to the attorney for the Petitioner;

The name and email or mailing address are listed below:

This _____ day of _____, 20_____.

Pro se (Sign your name)

Print your name: _____