



RESPONDING TO A SUMMONS AND COMPLAINT

Do I have to respond to a summons and complaint filed against me?

Yes, if the summons and complaint were properly served under Rule 4 of the Federal Rules of Civil Procedure. The summons states the amount of time you have to respond to the complaint. Please refer to Rule 12 of the Federal Rules of Civil Procedure for more information on when a response to a complaint is due. If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint.

How should I respond to the summons and complaint?

Under Rule 12 of the Federal Rules of Civil Procedure, once a defendant has been served with a complaint the defendant must, within the required amount of time, either file an answer to the complaint or file a motion challenging some aspect of the complaint.

What is an answer?

An answer is a written response to the complaint. Rule 8(b) of the Federal Rules of Civil Procedure requires the defendant to admit or deny every statement in the complaint. If the defendant does not have enough information to determine whether the statement is true or false, the defendant must state that he or she does not have enough information to admit or deny that statement. If only part of a statement in the complaint is true, the defendant must admit that part and deny the rest. Generally, under Rule 8(b)(6), a defendant is considered to have admitted every statement that he or she does not specifically deny, except for the amount of damages. When a defendant files an answer, he or she may also file a counterclaim, which is a complaint against the plaintiff. The plaintiff, in turn, must then file an answer or motion challenging the counterclaim.

What is a motion under Rule 12?

Motions under Rule 12 of the Federal Rules of Civil Procedure are motions challenging some aspect of the complaint. Rule 12(b) of the Federal Rules of Civil Procedure lists the defenses that can be raised in a motion to dismiss the complaint.