

## **HOW TO FILE AN ANSWER TO A COMPLAINT WITHOUT AN ATTORNEY**

This packet is to assist you if you have been served with a complaint (not a divorce) asking that you pay for damages or money that the other party claims you owe. To respond to the complaint, you will need to file an Answer.

You may have legal claims of your own against the person who filed the Complaint against you, and you may wish to include these in your Answer. Such claims are called "counterclaims." No one has evaluated your case for counterclaims (or for defenses), so writing down your counterclaims is probably something that you would need the help of an attorney to do properly. If you have any claims against the person who sued you, you should contact a private attorney immediately.

### **FAILURE TO ANSWER IS ADMITTING THE COMPLAINT**

If you will look at the SUMMONS, which often is the first page of the papers that you received from the Court, you will notice that it demands that you Answer the Complaint within 28 days after you are served with the Summons. **YOU MUST FILE YOUR ANSWER WITHIN 28 DAYS.**

The page immediately below the Summons should be the first page of the Complaint against you. Read the Complaint carefully. Failure to answer the Complaint in writing within 28 days after you receive it is an admission that what the Complaint says is true and the other person should win whatever they have asked for from the Court. If you do not answer the Complaint in

writing the law says that you therefore agree what the Complaint says is true, that the other side should win, and generally the other side may be able to make you pay money to them. If this is the case, there is no reason for the Court to have a trial, other than possibly a short hearing to determine the amount of the damages.

If there is no trial, then you will not get your day in Court. Also, if you do not file an answer to the Complaint, you may not receive any further notice from the Court about what is happening in your case until the person who sued you tries to collect his judgment by garnishing your wages or seeking to attach your personal property. (If, however, you do not earn or own enough, then your wages or property might be exempt from attachment. Public assistance cannot be garnished or attached.)

### **HOW TO PREPARE YOUR WRITTEN ANSWER**

Preparing a written Answer to the Complaint is easy. It can be nothing more than a letter to the Judge. Certain information must be included in your letter so that your Answer will be properly recorded when it is received. This information can be found on the Summons and from the top part of the Complaint. You must include:

1. Name of Court
2. Name of person who sued you (Plaintiff)
3. Your name (Defendant)
4. Case Number and Name of Judge

You can write the information the same way as it appears on the Complaint.

You should address the Judge as "Your Honor." Then tell the Judge that you are writing to him or her about a lawsuit filed against you in the Judge's Court. You should then admit whatever it is in the Complaint that is true, and deny whatever is not true. If the Complaint filed

against you has numbered paragraphs, as most of them do, then go through the Complaint paragraph by paragraph, admitting what is true and denying what is not true.

Whenever you deny something in the Complaint, you should also state briefly your reason why you are denying it or any part of it. For example, if the Complaint says that you owe money but you know that you already paid the money, then you should deny that you owe the money and say that you already paid it.

At the end of the letter, ask the Judge to dismiss the Complaint. Then print your name, address, and phone number legibly. In the lower left-hand corner of the letter write or type "cc:" and write the name of the attorney or person who filed the Complaint against you.

**You can also use the form Answer that is included in this packet.**

**DO NOT SIGN YOUR ANSWER UNTIL YOU ARE IN FRONT OF A NOTARY.**

Immediately take your Answer to a notary public. Ask the notary to "swear you in" and to witness you are telling the truth about what you have answered. Ask the notary to witness your signature and date you are now signing your Answer. Sign your Answer and the notary will then notarize it. There may be a small charge of up to \$1.00 for this service. Your Answer is now ready to serve and to file.

### **HOW TO SERVE AND TO FILE YOUR ANSWER**

After you have prepared your Answer and have had it notarized, you need to immediately make 2 photocopies of it. (Handwritten copies will not do.) MAIL one of these photocopies to the attorney or person who filed the Complaint against you. Although you do not have to mail the answer by certified mail, you may want to ask the post office to provide you with a Certificate of Mailing, which proves you mailed the answer on the date it was mailed, to the person to whom it was addressed.

Within 3 days of mailing one copy to the attorney (or the other person who filed the Complaint against you), take the original of your Answer and your remaining photocopy to the Clerk of the Court that served the papers on you. Be sure that you get the right Court. Take the Complaint with you to the Clerk's office and show it to the Clerk to confirm that you are in the right office. Then give the Clerk both your original Answer and your photocopy. Ask the Clerk to file-stamp the original and the copy and to give you your copy back.

The Clerk will then keep the original, which will go into the Judge's file so that the Judge can read it. The file-stamped photocopy will be returned to you. Keep your file-stamped copy in a safe place because it is your proof that you filed your Answer in the place and on the date indicated in the file stamp. It is like a receipt.

### **AND THEN WHAT?**

After you are done with all of this, the Judge will have your Answer, the person who filed the Complaint against you will have a copy of your Answer, and you will have a copy of your Answer with proof that you have filed the original with the Court. Everyone will know where you stand and that you are fighting the Complaint. The Court will then keep you updated on what happens in your case, and the person who filed the Complaint against you will know where to send any additional papers that he or she may file.

You must keep the Court and the other side up-to-date on what your current address is and what your telephone number is, if you have a phone number. This is so that the Court and the other side can continue to communicate with you. If you move, they will not look for you. If

any of the information you gave the Court in your answer changes, send another letter with the new information to the Clerk with the case number and parties' names; make sure you include what was your address.

The Court may set your case down for what is called a pre-trial hearing, which is an informal conference in which the Judge meets with the people involved in the case to see if it can be settled without a trial, and, if there must be a trial, how long it will take and what the issues will be.

Eventually, the Court will set your case down for a full hearing (the trial). At that hearing you will have the opportunity to present witnesses (including yourself) and other evidence against the statements in the Complaint. After hearing evidence from both sides and determining what evidence is properly admissible and what is not, the Judge will render a decision. Sometimes, the Judge gives his or her decision "from the bench", or he or she gives the decision later, after having an opportunity to think about the case.

Once the decision has been made by the Court, you will receive a copy of it. If you disagree, you will have the right to appeal but that is a different procedure and not covered by this packet.

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

\_\_\_\_\_  
*Plaintiff's Name*

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff's address*

JUDGE \_\_\_\_\_

Plaintiff,

vs.

**DEFENDANT'S ANSWER**

\_\_\_\_\_  
*Defendant's Name*

\_\_\_\_\_  
*Defendant's address*

Defendant.

I, the Defendant, answers the Complaint as follows:

I ask the Court to:

I swear that the information contained in the foregoing Answer is true and correct to the best of my information and belief.

\_\_\_\_\_  
Pro se

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City and State)

\_\_\_\_\_  
(Telephone Number)

**CERTIFICATE OF SERVICE**

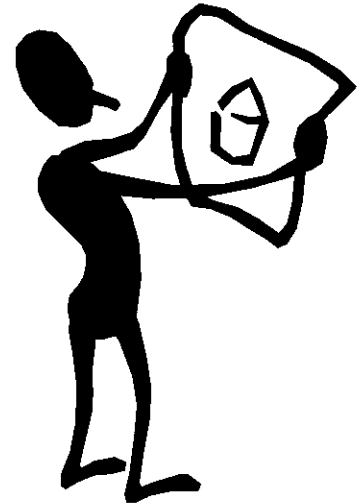
A copy of this document was served upon Plaintiff or upon Plaintiff's attorney at the following address: \_\_\_\_\_

by ordinary U.S. Mail, postage pre-paid, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Your signature)

# Representing Yourself in Court?

How to Use Photographs,  
Letters, Business Records,  
and Other Evidence to Help  
Prove Your Case



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## What is Evidence?

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Evidence is anything you use to prove your claim. Evidence can be a photograph, a letter, documents or records from a business, and a variety of other things. All evidence that is properly admitted will be considered by the judge.

*Your case probably will be decided by a judge. If there is a jury, it will look at admitted exhibits during its deliberations.*

For example:

- **In a request for change of custody**, the child's school records could be introduced as evidence that the child's grades have dropped or he/she has missed a significant amount of school while living with the other parent.
- **In a domestic violence or stalking civil protection order case**, a photograph of any injury you suffered or a threatening letter written by your abuser may help your case.
- **In a divorce case**, a copy of tax return documents or documents showing who has title to a car may be introduced as evidence.



## Why Use Evidence?

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- ➊ Evidence is more **believable and trustworthy** than what a person says. For example, in a domestic violence case, if you say that your ex-boyfriend has left you threatening messages but he testifies that this is an absolute lie, the judge may not know whom to believe. However, if you submit a tape recording of one of these messages the judge will be more likely to believe you.
- ➋ Evidence may make something **easier to understand**. “A picture is worth a thousand words.” Some things are hard to explain in words, while a drawing or photograph is descriptive and clear.

## How Do I Present Evidence to the Court?

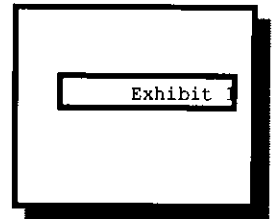
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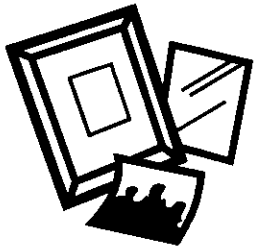
Each court is different, but in most courts, you can't just walk into court with a photograph or document and show it to the judge or jury. There are many things you must do before the court will even look at the evidence you have. Further, there are many different types of evidence, and the rules for using each type of evidence are different. Once you follow these rules, your evidence will be “admitted”.

## Steps to Follow to Admit Evidence

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- ➔ Before you ever go to court, think about the evidence you want to use to prove your case. Mark each piece of evidence with an exhibit number (attach a sticker labeled “Exhibit 1,” “Exhibit 2,” etc.)
- ➔ Bring these marked Exhibits with you to court. When you want to show the court one of the exhibits, do the following things:
  - ➊ Show the exhibit to the other party or the other party's attorney.
  - ➋ Then “lay the foundation” for the evidence. To do this, you must show that the evidence is relevant to your case and authentic (not a forgery). Depending upon what you want the court to consider, follow the rules listed in this pamphlet for “laying the foundation” - explaining why and how the exhibit is connected to your case.
  - ➌ Either you or your witness must testify about the exhibit.
  - ➍ Ask the court to admit the exhibit into evidence. The other party or attorney may object to the exhibit for some reason. Try to answer these objections as best you can. If you can't, let the judge decide.
  - ➎ If there are no objections from the other party, or the judge has ruled in your favor, ask the court to “admit the Exhibit into evidence.”





## Laying the Foundation for Photographs

1. Explain why a photo is connected to your case. For example:  
"This photo shows the injury I suffered after my ex-boyfriend punched and kicked me."
2. Explain how you know about what is in the photo. For example:  
"I had my sister take this photograph within 2 hours after the incident occurred and went to get the film developed myself the following day."
3. Explain that the photo is timely. For example:  
"At the bottom right-hand corner of the photo is the date on which it was taken. As you can see, the photo was taken on the same day that the incident occurred, which is also the same day the police arrested my ex-boyfriend."
4. Explain that the photo "fairly and accurately" shows what is depicted in the photo as it appeared on the date relevant to your case. For example:  
"This photo is a fair and accurate depiction of how my face and side looked two hours after the incident and for the next two weeks."

### **TIP**

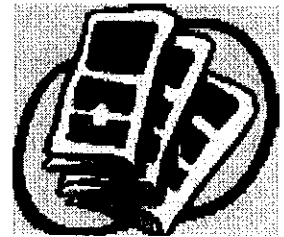
When using photographs, it is best to use color photos and enlarge them, if possible.

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## **Foundation for Letters**

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1. Explain why the letter is connected to your case. For example:  
"This is the letter that I received from my ex-boyfriend shortly before he beat me up."
2. Explain when and how you got the letter. For example:  
"This letter was shoved under the door to my apartment some time before 6 p.m. on Wednesday, January 2, 2001. I found it on the floor when I came home from work that day."
3. Prove that the signature is that of a party to the case. Ways to prove this:
  - **Explain to the court: that you are familiar with the other party's signature, how you came to know that person's signature, and that it is your opinion that the signature on the letter is the other party's signature.**



- **Call a witness who is familiar with the party's signature, and ask the witness:**  
"Do you know the other party in this case? Are you familiar with the party's signature? How?"

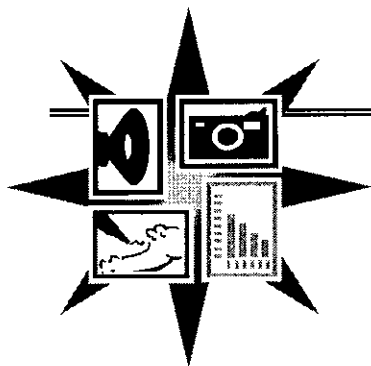
Then show them the letter and ask "Is this the other party's signature?"

- **Call the person who signed the letter.**  
Show the witness the document, and ask the witness if that is his or her signature. (Only do this if you think they will admit to it).
4. Explain that the letter is in the same condition now as when you received it. ("The letter was kept in a safe place and nothing has been changed since I received it.")

### TIPS

Do not read anything from the letter until the court has admitted it into evidence.

If the other party objects to the letter saying that it is hearsay, respond by saying: "The letter shows the letter writer's state of mind."



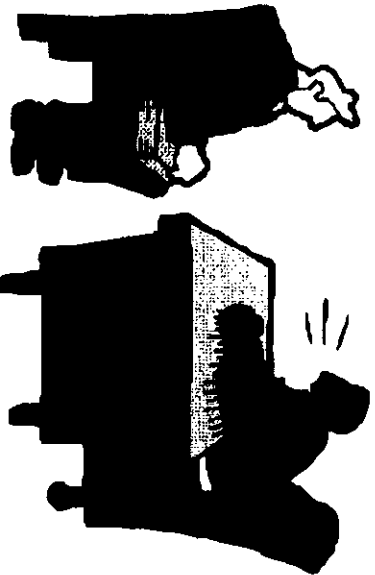
## Laying the Foundation for Documents and Records From Businesses

1. Explain how the document or record is related to your case.
2. Call a witness from the business/agency that produced the record, ask the witness what his or her responsibilities are at the business/agency and how he or she is involved in record keeping.
3. Show the witness the record and ask him/her if it is a record from the business/agency.
4. Ask the witness:
  - Was the record made by a person with knowledge of the acts or events appearing on it.
  - Was the record made at or near the time of the acts or events appearing on it.
  - Is it the regular practice of the business/agency to make such a record, and
  - Was the record kept in the course of a regularly conducted business activity.

### TIP

If the record is certified (a statement is attached to the record stating that it is in fact a record from a public agency or it has an agency seal on it) you do not need to do anything before you show it to the judge. Just let the judge know it is certified.

# How to Handle Witnesses When You Are Representing Yourself



## When Should I Bring a Witness to Court?

It is always a good idea to bring a witness with you simply to tell the Court that you are an honest person or to confirm that what you are telling the Court is true.

In most cases that come before the Court, both sides are telling a different version of the same story. The Court knows that each side may be telling the version that best serves his or her own interests. The testimony of a witness (someone not involved in the case directly) will make your side of the story more believable.

In some types of cases, you are required by law to bring a witness. For example, in divorce cases, many Courts require a that you bring a witness to testify that you are a person known to have good character in your community (that you are an honest and good person).

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## What If My Witnesses Can't Come to the Hearing?

Your witness must come to the hearing! A handwritten note from a person will not be accepted by the Court—the witness must show up at the hearing and testify live. Live testimony is required so that the other side has an opportunity to ask questions of your witness as well.

To make sure your witnesses will show up, make sure you call them the week of the hearing and again the day before the hearing to remind them.

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## Who Should I Bring as a Witness?

→ People who know you and your reputation in the community.

→ People who know about the situation that brought you to the Court from things they have seen or heard. Only use witnesses after you have talked to them and are sure that they will tell the Court what is helpful to your case.

While it is okay to have a friend or family member be a witness for you, it is always best to have someone who does not favor one side over the other. With family members and friends, the Court may assume that the person is testifying for you simply because they like you and want you to win.

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## How Do I Prepare My Witnesses?

→ Think about what is the most valuable thing each witness could say on your behalf.

→ Write down a few questions that will help the witness get the idea across.

→ Practice with your witness ahead of time, so you know what answers will be given.

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## What Should I Do With My Witnesses at the Court Hearing?

- Start by asking the witness their name and address.
- If your witness is a professional, you should ask what their job is, what their educational degrees are, and how long they have been doing their job.
- Then ask specific questions about what information they have about your case.

**With your own witness, it is not okay to ask "leading questions."** Leading questions give the witness the answer you want them to say.

You must keep your questions open-ended. *Open-ended questions are Who, What, Where, When, How, and Why questions.*

### Examples to use:

- How would you describe my husband's condition when he dropped the children off at your house?
- What did my husband do when he would pick the children up from day care?

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## What About the Other Side's Witnesses?

The other side will question them first. The judge will give you an opportunity to "cross examine" them (that is, ask them your own questions). You do not have to ask any questions if you think the witness will only repeat what was already said.

**When asking questions of the other side's witnesses, you are allowed to ask leading questions. Leading questions have Yes or No answers.**

### Examples to use:

- Was my husband ever drunk when he dropped the children off at your house?
- Didn't my husband yell and swear at the children when he came to pick them up from day care?

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## Rules To Follow When Questioning Witnesses

- Keep your questions short.
- Never ask a question when you do not know what the answer will be—the answer could hurt your case more than help it.
- If you don't get the answer you were expecting from a witness, do not argue with them or accuse them of lying. It makes you look bad before the judge. Remember... politeness at all times!
- If a witness refuses to answer a question, ask the judge to make the person answer.

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## Samples of Questions to Ask My Witnesses

- What is your name?
- What is your address?
- How long have you known me?
- During the time that you have known me, have you become familiar with my reputation in the community?
- Do I have a reputation for good character and honesty in the community?
- From what you know about me, am I someone the Court can rely upon to tell the truth?
- You have heard what I have said in Court. To the best of your knowledge, do you know it to be true?
- Please explain how you know this to be true.

### Prepared by:

NAPIL Equal Justice Fellow  
Ohio State Legal Services Association  
September 2000

# DEALING WITH DISCOVERY

- Interrogatories -
- Requests for Production of Documents -
- Request for Admissions -

Before a case goes to a hearing, both sides can ask each other questions. This is called "discovery". Some discovery is done in writing. Examples are:

- "Interrogatories" (please answer these questions in writing)
- "Requests for Production of Documents" (please give me copies of your paperwork)
- "Requests for Admissions" (please tell me what you admit)

If you get any of this kind of written discovery, you should write down your answers and mail them back to the person who sent them **within 28 days**.

## **Interrogatories:**

If you get Interrogatories, you need to write down your answers to the questions. Usually there is a blank space under each question. Write your answer in that blank space. If you don't understand a question, write "I don't understand this question." If you don't know the answer to a question, write "I don't know the answer to this question." Don't make any guesses. Only write down what you know is true. When you are done, you may have to sign your answers in front of a notary. Once you've signed them, make a copy to keep for your records. Then mail the Interrogatories back to the person who sent them to you. Try to do this within 28 days of the day you get them.

## **Request for Production of Documents:**

If you get Requests for Documents, you should make copies of the documents they ask for. If they ask for something you don't have, write "I don't have these." Don't send originals, just copies. Then mail them to the person who asked for them. Try to do this within 28 days of the day you get them.

## **Request for Admissions:**

If you get Requests for Admissions, you need to say if you admit what they say. For example a request for admission might say:

"Admit your wife went to prison in 2001 for burglary".

If this is true, write "Admit."

If it is not true write "Deny".

If it is partly true, explain what is true and what isn't: "She went to prison, but it was not for burglary".

If you don't know if it's true, write: "I don't know if that is true." When you are done, make a copy for your records. Then mail the Requests for Admissions back to the person who sent them to you. You must send your answered Requests for Admissions back within 28 days of the day you got them. If you are late or don't answer the Requests for Admissions, the court can rule that you admitted everything.