

Answering a Foreclosure Complaint

You are being given this packet because there is a foreclosure case against you. The plaintiff (usually the bank) filed a Complaint asking the Court to let it sell your house at auction in order to pay off your mortgage debt. You must respond to the Complaint right away by filing an Answer.

Important! If you don't file an Answer, the plaintiff could get a default judgment against you and you could lose your home.

1. What is an Answer?

Your Answer explains in writing your side of the story. Your Answer tells the court your defenses or reasons the plaintiff should not win the case. If you are not sure that everything said in the Complaint is true, your Answer should have a “*general denial*” at the beginning. After the general denial, your Answer should list or check any defense or explanation that you might have. A sample Foreclosure Answer Form is attached or you can use the DIY Foreclosure Answer Program. The DIY Program is a free and easy online program that walks you step-by-step through the paperwork you need to complete. To access it go to nycourthelp.gov/DIY.

Note: If you don't put a defense in your Answer you might not be able to bring it up later in the case.

2. Can I make a claim against the plaintiff or another defendant?

Yes, you may add “*counterclaims*” and “*cross-claims*” to your Answer. A counterclaim is a claim against the plaintiff. A cross-claim is a claim against another defendant.

3. What do I do with my completed Answer form?

- Sign the Answer. If the Complaint has a Verification at the end of it, this means that the plaintiff swore that the Complaint is true. You should “*verify*” your Answer by signing it in front of a Notary Public.
- Make copies of the Answer for the Plaintiff, yourself and any other parties.
- Deliver or “*serve*” a copy of the Answer by having someone, **not you**, mail it to the Plaintiff's attorney and fill out an Affidavit of Service (sample attached), and
- File the Answer and Affidavit of Service (or ask someone to file them for you) at the Clerk's office at the Courthouse. **Important!** Your Answer and Affidavit of Service must be filed at the Courthouse within 30 days of the date of your first foreclosure settlement conference.

4. Does it cost money to file the Answer?

No, filing the Answer is free. But if you file a Motion with the court there may be a fee. Ask if the Judge waived your motion fees in this case.

5. Where can I get more information about foreclosures?

In this packet, there is a list of free local organizations that can help you. You can find more information at www.nycourthelp.gov and www.lawhelpny.org. You can also find information about the New York State Attorney General's Homeowner Protection Program at www.ghomehelp.com or by calling 1-855-HOME-456. If you live in New York City, you can call the 311 Hotline which will direct you to free housing counseling and legal services.

Court staff can give you some information, like telling you what a motion is or telling you how to serve and file court forms. But Court staff can't give you legal advice, like telling you the best way to handle your case. If possible, it is always best to speak to an attorney.