

**SUPREME COURT, CIVIL BRANCH,
NEW YORK COUNTY
60 Centre Street, New York, N.Y. 10007**

**HELP CENTER
Room 116
646-386-3025**

How to Extend the Deadline to Answer the Complaint

Note: All persons involved in a lawsuit should consult an attorney. This office gives you forms and information on court procedures. Since we are an office of this court, we cannot give legal advice or act as your advocate.

If a defendant requires more time in which to serve an answer to, or to make a motion concerning, a complaint, he or she should request the consent of the plaintiff. If the request is granted, the parties should record their agreement in writing (which is referred to as a “stipulation”), including in the agreement the new deadline agreed upon. If the request is rejected, the defendant may apply for an extension of time from this Court. This is done as follows:

A. If The Time To Answer Has Not Passed

- 1) Submit to the Ex Parte Office (Room 315) an Affidavit in Support requesting the extension. The Affidavit in Support should:
 - (a) explain when the time to answer is due to expire,
 - (b) explain why further time to answer is needed,
 - (c) describe the conversations with counsel for plaintiff about an extension,
 - (d) state that the action is not one pursuant to CPLR 3213 (summary judgment In lieu of complaint).
 - (e) be signed in the presence of a notary public.
- 2) Attach to the Affidavit in Support a copy of the summons and complaint.
- 3) Attach to the Affidavit in Support a proposed order (copy of order is attached to these instructions) which would grant the extension of the deadline that you are seeking and which will be submitted for consideration to the Justice assigned to the application.

If your proposed order is signed by the Justice, a copy must be served upon the plaintiff's lawyer (or the plaintiff if he/she has no lawyer) in the manner and within the time set forth by the Justice. Note that you may obtain an extension without notifying the plaintiff's counsel in advance that an application has been or is being presented to the court.

B. If The Time To Answer Has Already Passed

If the time to answer or make a motion concerning the complaint has already expired, the defendant must proceed by a formal written motion and must give advance notice to the other side, or by way of an order to show cause, which also provides for advance notice. In the order to show cause, the defendant may include a request for an order that would stop the running of his/her time to answer the complaint until a hearing on the application for an extension of time before the court. Defendant may also request an order prohibiting plaintiff and plaintiff's attorney from entering a default judgment against defendant until the hearing of the motion.

If an extension has been granted before, either by consent of the other side (stipulation) or court order, a further extension will not be granted except on the basis of a motion for such relief served upon the adversary.

Instructions

Supporting papers required:

Affirmation (affidavit) stating order not based on promissory note- CPLR 3213

State in affidavit when the time to answer expires

If time has expired- move on notice (you may ask for interim relief)

State whether an extension has been previously granted by stipulation or order
Comply with CPLR 2217 (B)

Attach copy of Summons and Complaint

Print in black ink all areas in bold letters.

At I.A.S. Part ____ of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse thereof, 60 Centre Street, New York, N.Y., on the _____ day of _____, 20__

PRESENT: HON. _____
Justice of the Supreme Court

-----x

_____,
Plaintiff(s),

- against -

_____,
Defendant(s)

-----x

Index Number

ORDER PURSUANT TO
CPLR 2004

Upon the annexed affidavit of **[your name(s)]** _____,
sworn to on **[date Affidavit of Support notarized]** _____, and good
cause appearing therefore, it is

ORDERED, pursuant to CPLR 2004, that the time of the defendant(s) to answer or move
with respect to the complaint is extended for a period of twenty (20) days from the date hereof.

Let service of a copy of this order upon counsel for the plaintiff on the _____ day
of _____, _____ be deemed sufficient.

ENTER:

J.S.C.

[Print in black ink all areas in bold letters]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x

Index Number

[fill in names(s)]

_____,
Plaintiff(s)/Petitioner(s),

AFFIDAVIT IN SUPPORT

- against -

[fill in name(s)]

_____,
Defendant(s)/Respondent

-----x

STATE OF NEW YORK)
COUNTY OF NEW YORK)

ss:

_____ **[your name]**, being duly sworn, deposes
and says:

1. I am **[circle one]** the plaintiff/ petitioner/ defendant/ respondent in this matter. I make this
affidavit in support of this motion for an order **[Describe what you are asking the Court to do.]**

2. I believe the Court should grant this motion because **[Explain why you should be granted
what you are requesting. Explain any Exhibits (documents) you are submitting. Add more
pages if needed.]**

3. A prior application **[circle one]** *has not/ has* been made for the relief now requested **[If you made this application before in this or any other court, describe where, when, the result and why you are making it again. Attach copies of previous decisions.]**

WHEREFORE, I respectfully request that this motion be granted, and that I have such other and further relief as may be just and proper.

Sworn to before me on the _____ day of _____, 20____

Notary Public

[sign your name in front of a Notary]

[print your name]