

Instructions: Answer - Responding to the Complaint in an ADA Case

The Answer template in this packet was prepared by the Justice & Diversity Center, a nonprofit organization, and is *not* an official court form. It can be used to respond to civil ADA lawsuits in the Northern District Court of California. *This template provides guidance only. Using this template does not guarantee any result in your case.*



HOW TO GET LEGAL INFORMATION AND ADVICE

This packet provides general guidance. It does *not* tell you everything you need to know about responding to an ADA Complaint. You can make an appointment for free legal information and advice at one of the Legal Help Centers listed below.



If the case was assigned to a judge in the San Francisco, Oakland, or Eureka federal courthouse, do one of the following:



Call the appointment scheduling line for the Federal Pro Bono Project: 415-782-8982



Sign up in the appointment book at either:
450 Golden Gate Ave., 15th Floor, Room 2796, San Francisco or
1301 Clay Street, 4th Floor, Room 470S, Oakland



Email us at federalprobonoproject@sfbar.org
This email is to schedule appointments only-no legal advice is given over email.



If the case was assigned to a judge in the San Jose federal courthouse, do one of the following:



Call the appointment scheduling line for the Federal Pro Se Program: 408-297-1480



*Monday to Thursday 9:00 am - 12:00 pm, drop in at
The Law Foundation of Silicon Valley, 152 North 3rd St., 3rd Floor, San Jose*
*Monday to Thursday 1:00 pm - 4:00 pm, drop in at
280 South 1st Street, 2nd Floor, Room 2070, San Jose*



DECIDE HOW TO RESPOND TO THE COMPLAINT

Most Defendants file an Answer to the Complaint. If a Plaintiff did not follow the rules when serving you with the Complaint, the Complaint is missing certain information, or the Complaint shows that Plaintiff cannot win, it may be possible to file a Motion to Dismiss the Complaint instead. If you are considering filing a Motion to Dismiss, contact one of the Legal Help Centers (see page 1). *You have limited time to respond to the Complaint.*



HOW TO COMPLETE THIS ANSWER TEMPLATE

1. **Is your business sued in the Complaint?** As a general rule, you can represent yourself in a lawsuit but you cannot represent a business entity, even if you own it. If your business has been sued (they are listed as a defendant on the Complaint) you are not allowed to file this Answer on behalf of the business. You should contact one of the Legal Help Centers for advice.
2. **Know your deadline.** ⚠️ You have only 21 days after being served with the Summons and Complaint to file a response. If you need additional time, or have missed the deadline, it is normally best to contact the opposing side's lawyer right away and make arrangements. The Legal Help Centers (see page 1) can explain the process.
3. **Fill in the case information.** On the top of the first page, write your name and address. Check the box for the division to which your case has been assigned. Write in the plaintiff's and defendant's names in the middle of the front page. Then, to the right of the names, write in the case number and the judge's name.
4. **Respond to each paragraph in the Complaint.** Read each sentence of the Complaint. Each paragraph should be numbered.
 - If everything in the paragraph is **false**, do not write that paragraph number anywhere. The first paragraph of this Answer denies everything that is not specifically admitted.
 - If everything in the paragraph is **true**, write that paragraph number in Section B of this Answer form.
 - If you **don't know** whether the paragraph is true or not, write that paragraph number in Section C.
 - If the paragraph is **partly true and partly false**, write that paragraph number in Section D and explain which specific parts of the paragraph are true.

For example:

<p style="text-align: center;">1. Responses to the Claims in the Complaint</p>

<p style="text-align: center;">A. Defendant denies each and every allegation in the Complaint except those specifically admitted in this Answer.</p>

B. Defendant **admits** all of the allegations in the following paragraphs:

1, 3, 4, 10, 12

C. Defendant **does not know** or have enough information to form a belief as to whether the allegations in the following paragraphs are true:

5, 6, 7, 13, 14, 15, 16

D. Defendant **admits only the following parts** of each paragraph listed below, and denies or does not know enough to say whether the rest of the paragraph is true:

Paragraph 2: I admit only that I am the owner of the property located at Main St.

Paragraph 11: I admit only that I have four parking spots on my property.

5. **List your defenses.** An affirmative defense is an argument that Plaintiff's claim should fail for some procedural or legal reason. The purpose of this list in the Answer is to give enough notice of your defenses so that Plaintiff and the Court understand your argument. Section 2 of the Answer lists some of the common defenses used in ADA cases. Check the boxes for the defenses that apply to your situation. *Include all affirmative defenses that you may have. If you leave something out, the Court may not let you argue that the defense applies later in the case.* If you don't know the right legal terms for your defenses, just explain your reasons clearly in your own words. If you are not sure about your defenses, contact the Legal Help Center (see page 1).
6. **OPTIONAL: Write your own claims.** Although it is not very common, sometimes defendants have claims to bring against another person who is not yet part of the lawsuit. This is called a Crossclaim. For example, you may file a crossclaim if there is another owner or lessor of the property. Before making a claim in your Answer, contact the Legal Help Center (see page 1).
7. **Identify your demands.**
 - a. Complete the Demand for Relief section on the signature page to tell the Court what you would like it to do for you.
 - b. Judges (rather than juries) decide ADA cases. If the Plaintiff also brings claims for violations of California law against you, you may be able to have a jury trial. To make such a request, write DEMAND FOR JURY TRIAL on the first page, above the Judge's name, and also on the signature page, below the Demand for relief section.
8. **Number the pages.** Remove any pages that you are not using, such as the Counterclaim or Crossclaim pages. Then, count the total number of pages in your final Answer. In the bottom corner of each page, write in the page number and the total.
9. **Review and sign your Answer.** Read your Answer, making sure all blanks are filled in, and to confirm that all of the statements are true. Each defendant submitting the Answer must sign it.

10. **Prepare the Certificate of Service.** Each document that you file must be “served” on each other party. This is usually done by sending it in the mail. A Certificate of Service is a document that lets the Court know that you served the document listed on it. To prepare the Certificate, follow the instructions on it to complete each part, 1-7.



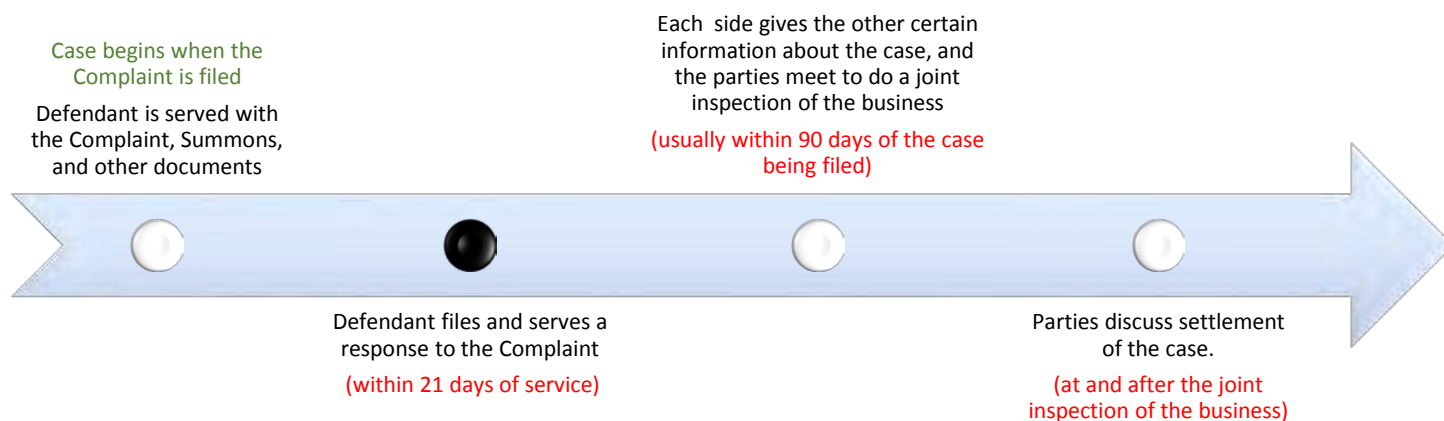
FILING AND SERVING YOUR ANSWER

- Make three copies.** Once you have completely filled out and signed your Answer and Certificate of Service, make three copies of each document. On one copy of the documents, write “Chambers” on the top in pen. (If there is more than one plaintiff or defendant, you will also need one copy for each of them.)
- Serve the Answer.** Be sure that the Answer and Certificate are served on each party.
- File the Answer.** Deliver or mail the *original plus two copies* of the Answer and Certificate to the Clerk’s Office at the federal courthouse where the Judge for your case is located. The Clerk will take the original and one copy. The other copy is for you to keep after it is stamped by the Clerk. If you file by mail, include a self-addressed, stamped envelope so that the Clerk can send a copy back to you.



TIMELINE: FIRST STEPS IN AN ADA CASE

This timeline below lists the first few things that happen in an ADA case. The Legal Help Centers (see page 1) can provide guidance about these steps, and have many additional templates for documents you may need to file during this time and throughout your case.





STAY UP TO DATE

1. **Tell the Court if you move.** You must file a notice with the Clerk right away if your mailing address, phone number or email address changes, or you may miss important deadlines, causing you to lose your case.
2. **Check your mail.** Be sure to check your mail regularly for documents from the Court or the opposing side.
3. A list of all of the documents that have been filed, and (usually) the documents themselves can be viewed online. See Chapter 7 of the Handbook for Pro Se Litigants (see page 5), and contact the Legal Help Center for information about how to access the documents (see page 1).



UNDERSTANDING THE LAWS AND RULES

In addition to visiting one of the Legal Help Centers (see page 1), there are other resources for understanding the laws and rules of the Court:

1. **Scheduling Order.** At the time each ADA case is filed, the Court will print out a Scheduling Order for the case that sets out the case deadlines. The Plaintiff should have served you with this document. If you need a copy, ask Plaintiff's counsel, come to the Court to request it, or visit a Legal Help Center (see page 1).
2. **Handbook for Pro Se Litigants.** The Handbook is a procedural guide for people who are representing themselves. It was prepared by the Court and is available at the Clerk's Office or on the Court's website at www.cand.uscourts.gov/prosehandbk. Chapter 10 discusses responding to the Complaint.
3. **Legal Research Guide for Pro Se Litigants.** The Research Guide can be used by people who are representing themselves to get more information about the claims in the lawsuit. It has information about finding statutes and decisions in other cases. It was prepared by the Justice & Diversity Center, a nonprofit organization, and is available at <http://www.cand.uscourts.gov/Legal-Help-Center-Templates>.
4. **Federal Rules of Civil Procedure.** These Rules explain the procedures from filing through trial for all civil cases in the federal courts across the country, and are available at <http://www.uscourts.gov/sites/default/files/rules-of-civil-procedure.pdf>. Rule 13 discusses counterclaims and crossclaims. Rule 5 discusses serving documents on other parties.
5. **Local Rules.** The Local Rules follow the same numbering as the Federal Rules of Civil Procedure, but generally provide more detail. They apply in this District only, and are available at <http://www.cand.uscourts.gov/localrules/civil>.

1 Your Name: _____
2 Address: _____
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4 Phone No.: _____
5 E-mail: _____

6 Pro Se Defendant

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Division [check one]: San Francisco Oakland San Jose Eureka

_____) Case Number: _____
_____)
Plaintiff,) **ANSWER TO ADA COMPLAINT**
vs.) Check only if you include a Crossclaim:
_____) **AND CROSSCLAIM**
_____)
_____)
_____)
_____) Judge: Hon. _____
Defendant.)
_____)

22 **1. Responses to the Claims in the Complaint**

- 23 *Each paragraph of the Complaint should be numbered. Read each paragraph carefully.*
- 24 • *If everything in the paragraph is **false**, do not write that paragraph number anywhere. The first paragraph of this Answer denies everything that is not specifically admitted.*
 - 25 • *If everything in the paragraph is **true**, write that paragraph number in Section B, below.*
 - 26 • *If you **don't know** whether the paragraph is true or not, write that paragraph number in Section C, below.*
 - 27 • *If the paragraph is **partly true and partly false**, write that paragraph number in Section D below and explain which specific parts of the paragraph are true.*
 - 28 • *Use more pages if needed.*

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A. Defendant **denies** each and every allegation in the Complaint except those specifically admitted in this Answer.

B. Defendant **admits** all of the allegations in the following paragraphs:

C. Defendant **does not know** or have enough information to form a belief as to whether the allegations in the following paragraphs are true:

D. Defendant **admits only parts** of each paragraph below, and denies or does not know enough to say whether the rest of the paragraph is true. *[Use more pages if needed]:*

Paragraph ____: I admit only that _____

Paragraph ____: I admit only that _____

Paragraph ____: I admit only that _____

Paragraph ____: I admit only that _____

1 **2. Affirmative Defenses**

2 *State any factual or legal reasons that the Plaintiff cannot win all or part of this case.*
3 *Provide enough detail so the Plaintiff and the Court will understand your defense. Below is a list of*
4 *some of the affirmative defenses that may apply in ADA cases. It does not list affirmative defenses to*
5 *claims under California law. Check the boxes for or write in the defenses that apply here, and*
6 *explain why the defense applies. If you are not sure about your defenses, contact the Legal Help*
7 *Center for an appointment. Use more pages if needed.*

8 The Complaint fails to state a claim upon which relief can be granted.

9 Plaintiff lacks standing because Plaintiff was not deterred from visiting the premises, nor can
10 Plaintiff establish intent to visit the premises in the future.

11 The Plaintiff's claims are barred by the statute of limitations because Plaintiff did not visit,
12 nor was not deterred from visiting within the two years before the Complaint was filed.

13 The facility was first occupied before January 26, 1993, has not been altered to affect the
14 usability of the facility since that time, and removal of the alleged barriers is not readily achievable.

15 Defendant provided adequate access to its business to persons with disabilities by using
16 methods such as customer service.

17 Plaintiff's requested modifications to the business would pose an undue burden on
18 Defendant.

19 Plaintiff's requested modifications would fundamentally alter the services and facilities.

20 Plaintiff failed to join a necessary party [list who Plaintiff should have joined as a defendant
21 in this case] _____

22 To the extent Plaintiff suffered any harm and may be entitled to any damages, both of which
23 Defendant denies, a third-party is liable for indemnity and/or contribution.

24 [Explain other affirmative defense] _____
25 _____

26 _____
27 _____

28 [Explain other affirmative defense] _____

ANSWER

CASE NUMBER _____; Page ____ of ____

OPTIONAL: Crossclaim against another Defendant

A crossclaim is a claim you may have against another Defendant in this case, or whom you want to bring into the case. To make a crossclaim, first write in the name of the Defendant against whom you are making a claim. List the type of claim you are making or the law that the Defendant violated. Then, starting with paragraph 3, write in the facts of your claim, using more pages as needed. For more information about making a crossclaim, make an appointment at the Legal Help Center.

Crossclaim Against *[name]* _____ **For** *[type of claim or the law the Cross-defendant violated]* _____

3. _____

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ANSWER

CASE NUMBER _____; Page ____ of ____

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Demand for Relief

WHEREFORE, Defendant demand:

- That the Court enter judgment dismissing the Complaint;
- That Defendant be awarded costs incurred;
- That Defendant be awarded such other and further relief as the Court may deem just;
- [If you filed a crossclaim, explain what you would like the Court to do]:*

Other *[explain]*: _____

If more than one Defendant is included in this Answer, each must sign and date below. Attach another page if you need to.

Respectfully submitted,

Date: _____

Signature: _____

Printed name: _____

Pro Se Defendant

ANSWER

CASE NUMBER _____; Page ____ of ____

1 *If you need more space to write your Answer, use this page. Make copies before writing.*

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ANSWER

CASE NUMBER _____; Page ____ of ____

CERTIFICATE OF SERVICE

You must serve each document you file by sending or delivering to the opposing side. Complete this form, and include it with the Answer that you file and serve.

1. **Case name** *[write Plaintiff's name on the first line, and your name on the second line]:*

_____ v. _____

2. **Case number:** _____

3. **Document served:** Answer *[if you added a claim of your own, check the box for that claim]*

Counterclaim Crossclaim

4. **How was the Answer served?** *[check one]*

Placed in U.S. Mail

Hand-delivered

Sent for delivery (e.g., FedEx, UPS)

Sent by fax (if the other party has agreed to accept service by fax)

5. **To whom was the Answer sent?** *[For each person you sent the document, write their full name and contact information used.]*

6. **When was the Answer served?** _____

7. **Who served the Answer?** *[Whoever puts it into the mail, faxes, delivers or sends for delivery should sign, and print their name and address. You can do this yourself.]*

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signature: _____

Name: _____

Address: _____
