

CIVIL ANSWER

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Instructions and Forms

CIVIL ANSWER in YUMA COUNTY SUPERIOR COURT

CHECKLIST

You may use this packet if the following factors apply to your situation:

- ✓ You received a summons and a complaint showing a civil lawsuit has been filed against you in Yuma County Superior Court; **and**
- ✓ You do not want a judgment taken against you without your response and input.

READ ME: Consulting a lawyer before filing papers with the court may help prevent unexpected results. You may find a list of lawyers to consult or hire on the Law Library Resource Center.

Civil Answer

This packet contains court forms and instructions to file a Civil Answer. The forms should appear in order as listed. Items in **BOLD** are forms that you will file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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Helpful information about the Civil Answer

What is a civil case? Court cases that involve disputes between people or businesses over money or some injury to personal rights are called “civil” cases. A civil case usually begins when one person or business (called the "Plaintiff") claims to be harmed by the actions of another person or business (called the "Defendant"). The plaintiff starts the court case by filing and serving a "complaint."

What is a civil complaint? A civil “Complaint” is a document in a civil case that outlines the Plaintiff’s facts, legal theories and requests relief from the Court.

What is a civil answer? A civil “Answer” is your response to the civil Complaint that briefly describes the facts and the legal matters that are in dispute in the lawsuit. The Answer generally contains the following parts:

- Admissions: What you agree is a true statement in the other party’s Complaint;
- Denials: What you think is an untrue statement in the other party’s Complaint;
- Defenses: Facts or arguments that show why Plaintiff does not have a right to the relief requested.

If you were recently served a Civil Complaint, Summons and Certificate of Compulsory Arbitration by the Plaintiff who started the lawsuit in Yuma County Superior Court - and you want to respond to the Plaintiff’s lawsuit, this packet may help you.

Generally, an Answer replies to each numerically listed claim in the Complaint with a response of “admit,” “deny,” or “without knowledge or information sufficient to form a belief as to the truth of the allegation.” You can learn more about how to write an Answer by reading the chapter on “Responding to the Claim,” in “Arizona Civil Trial Practice;” and Rule 8, in “Arizona Legal Forms, Civil Procedure,” available at the Law Library Resource Center.

Can you represent a legal entity (Corporation, Limited Liability Company, Partnership, etc.) in the Yuma County Superior Court if you are not an attorney? No. Arizona law states that only an attorney can represent a legal entity in Superior Court. The Law Library Resource Center has copies of the Arizona Rules of the Supreme Court and case law for your research on this topic.

What is an admission? In a civil case, an admission is saying that certain facts are true.

What is a defense? In a civil case, a defense is the fact or argument presented by the Defendant to show why the plaintiff doesn’t have a right to the relief requested. More information about defenses may be found in “Arizona Rules of Civil Procedure” and “Arizona Legal Forms, Civil Procedure” available at the Law Library Resource Center.

What is an affirmative defense? A Defendant’s statement of facts and arguments that, if true, will defeat the Plaintiff’s claim, even if all the allegations on the complaint are true. The Arizona Rules of Civil Procedure are available online or at the Law Library Resource Center for your research on this topic.

When must you file your Answer? IF you decide to file the Answer, you have a limited time to file it. A calendar is helpful for you to find the last day you may respond.

- Look at the time table below. The first column, "Service by" shows the ways you may be served the court papers. In this column, find how you were served the Complaint and Summons.
- Look to the next column called "Count" (across from the way you were served). Find the number of days. This is the amount of time you have to respond.
- Look at the last column, titled "Event." On a calendar, begin counting on the day after the date of the Event. End your calendar count using the number of days to answer. The calendar day you end on will be the date, which is your last day to answer. If the last day to answer falls on a Saturday, Sunday, or legal holiday, you do not count that day. Your last day to answer would be the next day.
- Include weekends and holidays in your count -- until you reach the number of days in the Timetable below. If a written Answer is filed with the court on time, the Plaintiff cannot proceed by default.

Time to respond

<u>Service by</u>	<u>Count</u>	<u>Event</u>
Acceptance	20 days	after Defendant signs the Acceptance
Acceptance out-of-state	30 days	after Defendant signs the Acceptance
Process Server	20 days	after Defendant receives papers from Server
Process Server out-of-state	30 days	after Defendant receives papers from Server
Sheriff in Arizona	20 days	after Defendant receives papers from Sheriff
Sheriff out-of-state	30 days	after Defendant receives papers from Sheriff
Publication in Arizona	50 days	after the 1 st date of publication
Publication out-of-state	60 days	after the 1 st date of publication
Waiver in U.S.	60 days	after request and notice sent
Waiver outside of U.S.	90 days	after Request and notice sent

Instructions: How to complete forms in the Civil Answer Packet

Form: Civil Answer

- Step 1: Read all the papers you were served. You should have received a Summons, Certificate of Compulsory Arbitration, and a Complaint.
- Step 2: Research your case. If you need more information about a civil lawsuit, legal terms, or what is required for a Civil Answer, you may research books such as *Arizona Civil Trial Practice*, *Black's Law Dictionary* or *Arizona Legal Forms*, which you may find at the Law Library Resource Center.
- Step 3: Fill out the answer form – use black ink only
- **Heading:** Complete the information in the upper left corner of the first page. If you have no attorney and are representing yourself, be sure to mark the “Representing Self” box.
 - **Names and Case Number:** Use the case number on the right side of Summons. Write the Plaintiff’s name on the line to the left of the case number. Write your name on the line labeled “Defendant.” Remember, you will always be the Defendant throughout this case.
 - **Admissions and Denials:**
 - Use the numbers listed on the left side of the Complaint as the guide for your responses to each numbered statement made by the Plaintiff. For each number, ask yourself “Is the sentence true?” (admit) or “Is the statement untrue?” (deny) Or, “Do I have enough information after reading the numbered sentences to admit or deny?”
 - If you need more paper, add another sheet immediately after the sheet on which you are writing, and label the sheet with the part of the answer to which it refers.
 - **WARNING:** Failure to deny a claim in an Answer results in the claim being deemed admitted. (See *Az. Civil Rule 8(c)(6)*.) To avoid this result, a statement has been included in the Answer stating that all claims not specifically admitted are denied.
 - **Defenses:** The facts or arguments presented by the Defendant to show why the Plaintiff doesn’t have a right to the relief requested. An attorney knowledgeable in civil law, and the book *Arizona Legal Forms, Civil Procedure, Rule 8 and 12* which lists and explains the different defenses, may assist you if you plan on using a defense.
 - Check the box for any affirmative defense that applies in your case.
 - If you have a defense that is not listed, write in your defense in the space provided.

WARNING

Defenses lost if not stated: Certain defenses and affirmative defenses are waived (lost) if not stated in the Answer or a motion filed under Rule 12, Arizona Rules of Civil Procedure.

Speak to an attorney if you have questions about asserting a defense or affirmative defense.

- Signature: You must sign and date the Answer prior to making copies and filing with the Clerk of Superior Court.
- Certificate of Service: Place a mark in the box and write the date you will file the Original Answer with the Clerk of Superior Court. Mail or deliver a copy of the Answer to the Judicial Officer, and mail or deliver a copy of the Answer to Plaintiff or the Plaintiff's Attorney. Then fill in the names of the Judicial Officer, the Plaintiff or Plaintiff's Attorney to whom you will mail or deliver the Answer packets; and the address where you will mail the packet for the Plaintiff or Plaintiff's Attorney.

Form: Certificate of Compulsory Arbitration (if you agree with the Plaintiff's Certificate of Compulsory Arbitration, you do not need to file this form)

- This form asks whether the dollar amount involved in your case is above or below the \$50,000 limit.
- If the largest amount you are seeking is \$50,000 or less (excluding interest, attorneys' fees, and costs), your case is subject to compulsory arbitration per Yuma County Superior Court Local Rule 3.10.
- If you are seeking an award above \$50,000, your case is not subject to compulsory arbitration.
- If you are asking for anything other than monetary relief, your case is not subject to arbitration.
- If you (as Defendant) disagree with the Plaintiff's Certificate of Compulsory Arbitration, you will need to explain why you disagree.

Form: Defendant's Demand for Jury Trial (this form is optional)

- If you do not want a jury trial, skip this part.
- If you want a jury trial, write in your name, address and other information at the top of the page. Identify yourself as the Defendant and write in the Plaintiff's name. Then write your name again on the line that begins with the word "Defendant."
- Date and Sign: At the bottom of the page, write the date you finish the form, and then sign the form. If your attorney is filing the form for you, your attorney must sign the form.

Procedures: Filing the Civil Answer

Step 1: Copy: Use the original and make three (3) copies of the completed “Answer,” “Certificate of Compulsory Arbitration,” and “Defendant’s Demand for Jury Trial” (only if you want a jury trial) forms.

Result: Four (4) completed sets of forms.

- One (1) ORIGINAL for the Clerk of Superior Court, plus
- One (1) copy for the Judge in the case,
- One (1) copy for the Plaintiff or Plaintiff’s Attorney,
- One (1) copy for you, the Defendant.

Step 2: Take the 4 sets and deliver to the Clerk of Superior Court.

- The Court is open from 8 a.m. to 5 p.m. Monday through Friday.
- Go to the Clerk of Superior Court at least two hours before closing.
- File at the following Superior Court location:

Clerk of Superior
250 W. Second St.
Yuma, AZ 85364

- Please Note: You can file your 4 sets of forms in any of the above court locations. However, your court hearing will be held at the location of your assigned judge.

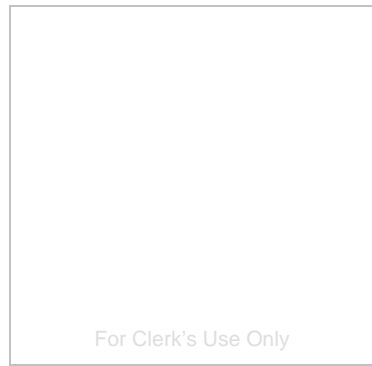
Step 3: Pay the filing fee to the Clerk of Superior Court.

- Find the list of current filing fees from the Clerk of Superior Court’s website or at the Law Library Resource Center.
- If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff or by publication, you may request a fee waiver or deferral (payment plan) when you file your papers with the Clerk of Superior Court.
 - Fee Waiver/Deferral Applications are available at no charge from the Law Library Resource Center.

- Wait for the Clerk to “date stamp” all three of your Civil Answer packets.
- The Clerk will keep your original, and
- Return three (3) of the copies for you, the Plaintiff, and the Judge.
- Keep one copy for yourself.
- Provide a copy to the judge assigned to your case by :
 - Mailing it directly to the assigned judge.
 - Placing it directly in the assigned judge’s “in-basket” at the Superior Court Information Desk

Step 4: Mail the Plaintiff (or his or her Attorney) one set of your “Answer,” “Certificate of Compulsory Arbitration,” and “Demand for Jury Trial” (only if you want a jury trial) forms.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
ATLAS Number: _____
Lawyer's Bar Number: _____



Representing Self, without a Lawyer or Attorney for Plaintiff OR Defendant

SUPERIOR COURT OF ARIZONA YUMA COUNTY

Name of Plaintiff(s)

Case Number: _____

ANSWER

Name of Defendant(s)

For Defendant's Answer to Plaintiff's Complaint, Defendant, _____, admits, denies and alleges as follows:

1. The allegations in paragraph ONE in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

2. The allegations in paragraph TWO in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

3. The allegations in paragraph THREE in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

4. The allegations in paragraph FOUR in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

5. The allegations in paragraph FIVE in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

6. The allegations in paragraph SIX in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

7. The allegations in paragraph SEVEN in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

8. The allegations in paragraph EIGHT in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

9. The allegations in paragraph NINE in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

10. The allegations in paragraph TEN in the Complaint, I:

ADMIT as true, Deny, State I have insufficient information to determine whether true or false.

(If you need more space, add an attachment labeled "Civil Answer," and continue consecutive numbering.)

Defendant's GENERAL DENIAL: Defendant denies anything stated in the Complaint that Defendant has not specifically admitted, qualified, or denied.

DEFENSES and DENIALS

A. Defendant alleges that the claims for relief stated in the Complaint are, or may be, barred by reason of (check any that apply):

- Lack of personal jurisdiction.
- Lack of subject matter jurisdiction.
- Insufficient service of process
- Failure to state a claim upon which relief can be granted.
- Accord and satisfaction.
- Arbitration and award.
- Assumption of risk.

- Contributory negligence
- Duress
- Estoppel
- Failure of consideration
- Fraud
- Illegality
- Laches
- License
- Payment
- Release
- Res judicata
- Statute of Frauds
- Statute of Limitations
- Waiver
- Other Defenses are listed and explained below.

Defendant reserves the right to amend this Answer at a later time to assert any matter constituting an avoidance or affirmative defense including, without limitation, those affirmative defenses set forth in Rule 8(d), Arizona Rules of Civil Procedure, as discovery shows to be applicable.

REQUESTS to the COURT

WHEREFORE, having fully defended, Defendant requests that Plaintiff's Complaint be dismissed, that Plaintiff take nothing, and that Defendant be awarded the costs and expenses incurred herein, including such other and further relief as the Court may deem just and proper.

Date

Signature of Defendant/Defendant's Attorney

CERTIFICATE OF SERVICE:

The following page must be completed and attached to the LAST page of your Answer:

I filed the ORIGINAL of the Answer with the Clerk of the Superior Court in Yuma County on: _____
Month Date Year

I mailed/delivered a COPY of the Answer to the Judicial Officer assigned to my case, Judge (or Commissioner): _____ on _____
(Judicial Officer assigned to your case)
Month Date Year

I mailed/delivered a COPY of the attached document(s) to the Plaintiff (or Plaintiff's Attorney if Plaintiff is represented by an attorney) on: _____
Month Date Year

Name of Plaintiff / Plaintiff's Attorney

Address

City, State, Zip

(You must mail a copy of all documents to the Plaintiff or his/her lawyer)

By signing below, I state to the Court, under penalty of law, that the information stated on these pages is true and correct to the best of my knowledge and belief.

I further state that I have filed/mailed the attached document(s) as shown above. I understand that if I do not file/mail the attached document(s) as shown above, the Judge in my case will not read the attached document.

Your signature

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Plaintiff OR Defendant

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

PLAINTIFF,

vs.

DEFENDANT.

Case Number: _____

CERTIFICATE OF COMPULSORY
ARBITRATION

*Notice to Defendant: If you agree with the Plaintiff's Certificate of Compulsory Arbitration, you DO NOT need to file this form.

The undersigned certifies that this case is (Please check ONLY one option below):
Subject to Arbitration – The amount of money in controversy DOES NOT exceed \$50,000, AND no other affirmative relief is sought.

Not Subject to Arbitration – The amount of money in controversy DOES exceed \$50,000, OR other affirmative relief is sought.

Case Number: _____

*Defendant – If you DISAGREE with the Plaintiff’s Certificate of Compulsory Arbitration, please explain why you disagree below:

SUBMITTED this _____ day of _____, 20_____.

SIGNATURE _____