

Summons, complaint,
and answer

The papers used to initiate a lawsuit are known as the summons and the complaint. The defendant's response to these papers is known as the answer. This presentation explains how these three elements feature in a lawsuit.

Summons

The summons is usually a one-page document informing the defendant that he or she is to appear in court.

The summons served on the defendant informs the defendant that he or she is being sued, by whom, and how long he or she has to respond.

Complaint

The complaint is usually delivered with the summons and is much more detailed.

The complaint includes:

- The plaintiff's version of what occurred
- The cause of action
- The basis for *in personam* jurisdiction
- A prayer for relief, or request for money

Sample Complaint

STATE OF NEW YORK
COUNTY OF TOMPKINS

JOHN DOE,
PLAINTIFF

VS.

MARY SMITH,
DEFENDANT

COMES NOW THE PLAINTIFF AND ALLEGES AS FOLLOWS:

1. THE DEFENDANT IS A NOT FOR PROFIT CORPORATION DOING BUSINESS AT 123 ELM STREET IN ITHACA, NEW YORK.
2. THE PLAINTIFF IS A RESIDENT OF NEW YORK RESIDING AT 45 THER STREET.
3. ON THE EVENING OF MAY 31, 2007 THE PLAINTIFF WAS HAVING BREAKFAST IN HIS BACKYARD WHEN THE DEFENDANT THREW A FRISBEE OVER THE FENCE WHICH STRUCK THE PLAINTIFF IN THE FACE CAUSING SEVERE EYE INJURIES.
4. AS A RESULT, THE PLAINTIFF HAS INCURRED \$185,000.00 IN MEDICAL DAMAGES, PAIN AND SUFFERING.
5. WHEREFORE, THE PLAINTIFF SEEKS THE SUM OF \$185,000.00 FROM THE DEFENDANT.
6. SIGNED, THE PLAINTIFF

Service of process

There are a number of ways to serve the defendant with the summons and complaint. Here are four of the most common, beginning with personal delivery.

Personal delivery is the most common type of service. It involves delivering the summons and complaint directly to the defendant. In some states you can hire someone to serve process for a fee, in other states the sheriff delivers the papers.

The second method is known as substituted service of process.
This is sometimes also called leave and mail.

If the defendant cannot be located you can serve papers on a family member or business associate, such as the defendant's administrative assistant.

The third method is known as nail and mail.

If the defendant, family member, or associate cannot be located you can serve process by attaching the papers to the defendant's front door then mailing a copy to the defendant's home.

The fourth method is by registered agent.

This method is used if the defendant is a corporation. Corporations assign registered agents to receive service of process on behalf of the corporation.

Answer

After receiving the summons and complaint the defendant has the opportunity to respond with a formal document called an Answer.

The Answer responds to each of the numbered allegations in the complaint by saying that the defendant admits, denies, or doesn't know.

* It is important to remember that if the defendant fails to answer any paragraph the allegations listed there are admitted as true by default.

Sample Answer

THE COMPLAINT

1. THE PLAINTIFF IS A RESIDENT OF 123 ELM STREET, ITHACA, NEW YORK.
2. THE DEFENDANT IS A RESIDENT OF THE GARDEN APARTMENTS, ITHACA COLLEGE.
3. ON APRIL 5TH, 2003, THE DEFENDANT DID PUNCH THE PLAINTIFF IN THE FACE AT AN ITHACA BAR CALLED MOONSHADOWS.
4. AS A RESULT OF THE DEFENDANT'S ASSAULT AND BATTERY, THE PLAINTIFF SUFFERED PHYSICAL INJURIES IN THE AMOUNT OF \$145,000.00.

THEREFORE, THE PLAINTIFF SEEKS RELIEF IN THE AMOUNT OF \$145,000.00

SIGNED,

— THE PLAINTIFF

THE ANSWER

1. THE DEFENDANT **ADMITS** THE ALLEGATIONS OF PLAINTIFF'S PARAGRAPH 2.
2. THE DEFENDANT **HAS NO KNOWLEDGE** OF PLAINTIFF'S ALLEGATION #1.
3. THE DEFENDANT **DENIES** ALL OF THE OTHER ALLEGATIONS OF THE PLAINTIFF'S COMPLAINT.

SIGNED,

THE DEFENDANT