



## How to File an Answer to a Foreclosure Complaint

(Superior Court of New Jersey - Chancery Division - General Equity)

### Who Should Use This Packet?

You may use this package if you have received a summons and foreclosure complaint notifying you that you are a party to a foreclosure complaint that has been filed with the New Jersey Superior Court.

- If you are the borrower and you believe that the lender does not have a right to foreclose on your property, you may file a written answer in which you present your defenses and explain the reasons why the lender is not entitled to a foreclosure judgment.
- If you are not the borrower, but you were named in the complaint either because you have an interest in the property or for another reason, you may file a written answer to assert any rights you may have.
- If you operate a business entity that was named in the complaint and the business is a corporation, LLC, partnership or non-profit entity (i.e., not a sole proprietorship), then **you cannot file the answer yourself and you must hire an attorney to file the answer and to represent the business entity in the foreclosure case.** The answer, if submitted by someone other than an attorney, will be returned.

If you choose to file an answer, you must do so within 35 days from the date that you receive the summons and complaint; and you must include a completed *Foreclosure Case Information Statement*, a *Certification Pursuant to Court Rule 4:5-1* and the \$175.00 filing fee (\$250 for Answers with Counter-Claim, Cross-Claim and/or Third-Party Complaints) payable to the *Treasurer, State of New Jersey*. **All documents must be dated and have an original, ink signature. Copies, if submitted, will be returned.**

With limited exceptions, any paper filed with the court can be looked at by the public. You may only file an answer on behalf of yourself. You may not file an answer for anyone else. A Power of Attorney does not allow you to file on behalf of anyone else. Answers filed on behalf of anyone else will be returned.

**Note:** These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The instructions and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the [forms](http://njcourts.gov) will be available on the Judiciary's Internet site [njcourts.gov](http://njcourts.gov). However, you are ultimately responsible for the content of your court papers.

**Completed forms are to be submitted to Foreclosure Processing Services, Superior Court Clerk's Office, P.O. Box 971, Trenton, New Jersey 08625.**

## Things to Think About Before You Represent Yourself in Court

### Try to Get a Lawyer

The court system can be confusing and it is a good idea to get a lawyer if you can. The law, the proofs necessary to present your case, and the procedural rules governing foreclosure cases are complex. Most likely your opponent will be represented by a lawyer. It is recommended that you make every effort to obtain the assistance of a lawyer. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found in your local yellow pages under “Legal Aid” or “Legal Services.” A Directory is also located online on [njcourts.gov](http://njcourts.gov).

If you do not qualify for free legal services and need help in locating an attorney, you may contact the bar association in your county. That number can also be found in your local yellow pages. Most county bar associations have a Lawyer Referral Service. The County Bar Lawyer Referral Service can supply you with the names of attorneys in your area who handle foreclosure matters and who may be willing to consult with you at a reduced fee. There are also organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of lawyer referral services that include these organizations.

If you decide to proceed without an attorney, these materials explain the procedures that **must** be followed to have your papers properly filed and considered by the court. Failure to follow procedures can result in a delay with processing your documents.

These materials do not provide information on the law governing your claims or defenses; information on how to conduct pretrial discovery; information on alternative dispute resolution procedures, such as arbitration or mediation, that may be available or required in your case; information on the kinds of evidence you need to prove your claims or defense at trial; or information on other procedural and evidentiary rules governing foreclosure actions.

### What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help, or attention from the court. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

### Keep Copies of All Papers

Make and keep copies of all completed forms and documents related to your case.

## Overview

A foreclosure action typically begins when the lender sends a Notice of Intention to Foreclose to the property owner. After 30 days have elapsed, the lender (plaintiff) may file a foreclosure complaint and a Foreclosure Case Information Statement with the Superior Court Clerk in Trenton with the appropriate filing fee. The homeowner or other defendant may file a written answer to the complaint, explaining why the lender does not have the legal right to foreclose. This must occur within 35 days from receipt of the summons and foreclosure complaint. **The defendant must include a completed Foreclosure Case Information Statement, Certification Pursuant to Rule 4:5-1 and the appropriate filing fee.**

The answer will be reviewed to determine whether it is a contesting or non-contesting answer. If the answer is determined to be contesting, the file will be transferred to the Superior Court judge in the vicinage in which the property is located. If the answer is determined to be non-contesting, the Office of Foreclosure will retain the file and process the foreclosure action.

For an explanation of the foreclosure process and what to expect to happen in a foreclosure action, see the [Foreclosure FAQ](#) on the Judiciary's website, [njcourts.gov](http://njcourts.gov).

### Definitions of Words Used in This Packet

**Affirmative Defense** - *Affirmative defenses* set out facts and circumstances which if proved true (and which the defendant has the burden of establishing) would act to defeat the plaintiff's request for a foreclosure judgment (even if the plaintiff's allegations are true). Examples of affirmative defenses include specific violations of the Fair Foreclosure Act, or the Truth in Lending Act, or fraud. See *Rule 4:5-4*.

**Answer** - An *answer* is the written document filed by the defendant that contains the response to each of the statements made by the plaintiff and states whether the defendant admits the statement, denies it, or is without sufficient information to know whether the statement is true. It also contains any affirmative defenses the defendant may have.

**Caption** - A *caption* is the name of the case; it lists the name of both the plaintiff(s) and the defendant(s). For example: ABC Mortgage Company, Plaintiff v. Mary Smith, Defendant.

**Certification** - A *certification* is statement that certain facts are true to the best of the knowledge of the person making the statement. It is like an affidavit, but is not sworn before a notary or other authorized person.

**Certification of No Other Actions Pursuant to Rule 4:5-1** - A *certification of no other actions* is a sworn written statement at the end of the answer in which you state that, to the best of your knowledge, the case in which you are filing an answer is not the subject of any other court matter or arbitration, that there are no other parties that need to be added to the case and that you recognize the obligation to notify all parties and the court if there are any changes.

**Complaint** - A *complaint* is a document in which the plaintiff tells the court the legal basis for the right to foreclose on the property.

**Contesting Answer** - A *contesting answer* is one that challenges the right of the lender to foreclose on the defendant's property. A contesting answer will be sent to a judge for a determination on the lender's right to foreclose.

### Definitions of Words Used in This Packet (continued)

**Counter-Claim** - A *counter-claim* is a claim that is made by a defendant against the plaintiff in the same action.

**Cross-Claim** - A *cross claim* is a claim filed by either a plaintiff against another plaintiff or a defendant against another defendant in the same action and related to the subject of the original claim.

**Defendant** - The *defendant* is the person being sued.

**Docket Number** - A *docket number* is the number the court assigns to a case so that it may be identified and located easily. You **must** include the docket number on all your communications regarding your case. **Note: Documents without a docket number cannot be filed.**

**File** - To *file* means to give the court the appropriate documents, forms and fees.

**Foreclosure Case Information Statement (FCIS)** - The [FCIS](#) is a form that summarizes your case for the court. Court rules require that each party file an FCIS with its complaint or answer. The FCIS is included at the end of this packet.

**Non-contesting Answer** - A *non-contesting answer* is one that does not challenge with specificity the lender's right to foreclose on the defendant's property. A case with a non-contesting answer will not be sent to a judge for resolution, but will be handled by the Office of Foreclosure in Trenton.

**Plaintiff** - The *plaintiff* is the person who files a complaint in a lawsuit.

**Proof of Mailing** - *Proof of mailing* is the form in which you provide the dates and method you used to give the other parties copies of the papers that you filed in court.

**Pro se** - *Pro se* is a Latin term that means "on one's own behalf." A plaintiff or defendant in a law suit who does not have an attorney is said to be appearing *pro se*.

**Redaction** - the censoring or obscuring of part of a text for legal or security purposes is called *redaction*. **Note:** Any documents received by the Clerk's office will be processed and placed in the case jacket which, with limited exceptions, is available for public view.

**Separate Defenses** - *Separate defenses* contest the basis of the plaintiff's claims. For example, a spouse who, although named in the title to the property, did not execute the mortgage may file a separate defense denying the statement in the complaint that the spouse is a party to the loan and executed the mortgage. See *Rule 4:5-3*.

**Service** - *Service* refers to the delivery of the complaint or any other paper in a suit to the other parties in the case. Formal legal service requires that the service be made by an authorized person or by mail or, in limited situations, by publication in a newspaper.

**Third-Party Complaint** - A *third-party complaint* is a complaint filed against a third party by a defendant or plaintiff, alleging that the third party is liable for all or part of a claim or counterclaim in dispute between the original parties.

**The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8 ½” x 11” white paper only. Forms may not be filed on a different size or color paper.**

## Steps for Filing an Answer

### **STEP 1: Fill out the *Answer* (Form A).**

The *Answer* tells the court in short and simple terms whether you admit or deny the statements made by the plaintiff in the complaint or whether you are without sufficient information to know whether the statements are true. You must respond to each numbered paragraph in the complaint and list your response in separate paragraphs, and either admit the statement, deny the statement, or respond that you do not have enough information to know whether the statement is true. You must do this for each count in the Complaint. The Answer can also set forth every affirmative defense you may have to the plaintiff’s claims.

**Note:** A response in a foreclosure answer that a party is without knowledge or information is considered a *non-contesting response*.

In the area for Affirmative Defenses, you can list the facts that you believe could prevent the foreclosure from taking place. You may state as many separate defenses as you have and provide any reasons you have why the plaintiff should not be permitted to foreclose on your property. For example:

- The plaintiff violated the Fair Foreclosure Act (explain how)
- You, the defendant, fulfilled your obligation to the lender (explain)

**Note:** You must be able to prove in court any affirmative defenses you include in your answer.

Sign and print your name and date the remaining statements on the continuation of Form A.

**Make sure** that you have redacted (blacked out) any personal identifiers such as

- Social Security numbers,
- driver’s license numbers,
- vehicle plate numbers,
- insurance policy numbers,
- active financial account numbers, or
- active credit card numbers,

from any paper filed with the court, unless any such personal identifier is required to be included by statute, rule, administrative directive or court order. If any active financial account is the subject of your case and cannot otherwise be identified, you may use the last four digits of the account to identify it.

**Do not redact (black out) this information in the original papers that you are keeping** (such as a bank statement) since you may have to show them to the court at some point.

### **All foreclosure documents must be filed at:**

The Administrative Office of the Courts  
Superior Court Clerk’s Office  
PO Box 971  
Trenton, NJ 08625.

Foreclosure documents taken to the county for filing will **not** be accepted for filing.

### **STEP 2: Complete the *Foreclosure Case Information Statement (FCIS)*.**

The *FCIS* form is attached to this packet. You must complete Section A and must print and sign your name and print the date at the bottom of the form, you do not need to complete Section B. **Please provide original signatures. Copies are not accepted.**

**The completed *FCIS* must be filed with the *Answer*.** Failure to file this required document will result in your answer being returned to you.

You may only file an answer on behalf of yourself. You may not file an answer for anyone else. A Power of Attorney does not allow you to file on behalf of anyone else. Answers filed on behalf of anyone else will be returned.

**STEP 3: Attach the Filing Fee**

The fee for filing an Answer is \$175. The filing fee for an Answer with a Counter-Claim, Cross-Claim and/or Third-Party Complaint is \$250. Make a check or money order payable to the *Treasurer, State of New Jersey*.

**STEP 4: Check Your Completed Forms and Make Copies**

Check your forms to make sure that they are complete and that you have signed them in the appropriate places. The Clerk's Office will only accept original documents. To avoid any confusion, it is recommended that you **sign all documents in blue ink**.

Make sure to make copies of your forms to send to all parties, and retain a copy for yourself.

**Checklist** - In Steps 5 and 6 you will be directed to mail your documents to the Superior Court Clerk and other parties. The following checklist will help insure your package is complete:

- \_\_\_ The original *Answer, Certifications* and *Foreclosure Case Information Statement (FCIS)*.
- \_\_\_ The filing fee in the amount of \$175 (if filing an *Answer* only) OR The filing fee in the amount of \$250 (if the Answer contains a Counter-Claim, Cross-Claim and/or Third-Party Complaint) in the form of a check or money order, made payable to the *Treasurer, State of New Jersey*. **Do not mail cash.**
- \_\_\_ Review your papers to ensure all personal identifiers are redacted, (unless such personal identifies are required to be included).

**STEP 5: Mail or Deliver the Answer and FCIS to the Court.**

Mail or deliver the original *Answer* and *FCIS* to the Superior Court Clerk's Office at the address below. All files sent to the Clerk's Office must have a have an **original, ink signature**. If you mail the papers, we recommend that you use certified mail, return receipt requested.

Foreclosure Processing Services  
Superior Court Clerk's Office  
P.O. Box 971  
Trenton, New Jersey 08625

**STEP 6: Mail Copies of the Answer and FCIS to ALL Parties.**

Within 35 days of the date that you receive the summons and complaint, you must send a copy of your *Answer* and *FCIS* to each party or, if the party has an attorney, to the attorney for that party. It is recommended that you use certified mail, return receipt requested and keep the green card when it is returned to you as proof of service.

**Keep copies of all papers you provide to the court or any other party. Make and keep for yourself copies of all completed forms and any canceled checks, money orders, receipts, bills, contract estimates, letters, leases, photographs and other important papers that relate to your case.**

## Instructions for Completing the Answer (Form A)

1. At the top left of the form, enter your name, address, daytime phone number, and email address. **Note: the email address is required.**
2. On the line labeled *Plaintiff(s)*, type or print the name of party or bank that filed the foreclosure complaint.
3. On the line labeled *Defendant(s)*, enter the name(s) of the defendants listed on the complaint.
4. On the line labeled *County*, enter the county where the case is filed.
5. On the line labeled *Docket Number*, enter the foreclosure docket number. This information can be found in the complaint that was served on you.
6. To the left of *residing at*, enter your name(s).
7. On the line after *residing at*, enter the street address where you reside.
8. On the line after *City of*, enter the city where you reside.
9. On the line after *County of*, enter the county where you reside.
10. On the line after *State of*, enter the state where you reside.
11. In the section labeled *As to the First Count*, list your response in separately numbered paragraphs which correlate to the numbered paragraphs in the First Count of the Complaint. **Make sure to number the paragraphs the same as they are in the complaint.**
12. In the section labeled *As to the Second Count*, list your response in separately numbered paragraphs which correlate to the numbered paragraphs in the Second Count of the Complaint. **Make sure to number the paragraphs the same as they are in the complaint.**

**Note:** If the Complaint contains more than two counts, use additional paper to respond as to whether you admit, deny, or are without knowledge or information sufficient to form a belief as to the truth of the allegations in each of the paragraphs of the additional counts of the complaint. List your response in separately numbered paragraphs which correlate to the numbered paragraphs in the additional Count of the Complaint.
13. Under the heading of **Affirmative Defenses**, use the sections marked *First Separate Defense*, *Second Separate Defense*, *Third Separate Defense*, *First Affirmative Defense*, and *Second Affirmative Defense* to list any facts, or state your response to allegations that appear in the Complaint.
14. Date and sign the form, and print your name under the signature.
15. Use the second date and signature area for any additional defendant(s).

**Instructions for Completing the Certification Pursuant To *Rule 4:5-1***

1. Date and sign the form, and print your name under the signature. **Note:** when you fill out this form, you are certifying that the statements made on the form are true. If you willfully make false statements, you may be subject to punishment.
2. Use the second date and signature area for any additional defendant(s).

**Instructions for Completing the Certification of Mailing Answer to Court  
and to the Attorney for the Plaintiff**

1. Enter the date (mm/dd/yyyy format) in the first space provided after the word *On...* in item 2.
2. Enter the name of the plaintiff's attorney in the space following *mailed to....*
3. Enter the address of the plaintiff's attorney in the space following *at....*
4. Date and sign the form, and print your name under the signature. **Note:** when you fill out this form, you are certifying that the statements made on the form are true. If you willfully make false statements, you may be subject to punishment.

**FORM A**

**NOTICE:** This is a public document, which means the document as submitted will be available to the public upon request. Therefore, do not enter personal identifiers on it, such as Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number, or active credit card number.

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Daytime Telephone \_\_\_\_\_  
Email Address \_\_\_\_\_

**Defendant(s) Pro Se**

Superior Court of New Jersey  
Chancery Division - General Equity  
\_\_\_\_\_ County

Docket No. F - \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s)

v.

**Civil Action**

**Answer**

\_\_\_\_\_  
Defendant(s)

\_\_\_\_\_, residing at \_\_\_\_\_, in

the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_,

by way of Answer to the plaintiff's complaint herein, says:

**As to the First Count:**

Defendant admits/denies or is without knowledge or information sufficient to form a belief as to the truth of the allegation of each of the following paragraphs of the first count of the complaint as follows:

## **FORM A**

### **As to the Second Count:**

Defendant admits/denies or is without knowledge or information sufficient to form a belief as to the truth of the allegation of each of the paragraphs of the second count of the complaint as follows:

**Note:** If the Complaint contains more than two counts, use additional paper to set forth whether you admit, deny or are without knowledge or information sufficient to form a belief as to the truth of the allegations in each of the paragraphs of the additional counts of the complaint.

### **Affirmative Defenses**

**Note:** Defendants must include all separate (see *R. 4:5-3*) and affirmative defenses (see *R. 4:5-4*), raise them by motion as permitted in *R. 4:6-2*, or otherwise raise the defense in a timely manner or those separate defenses and affirmative defenses are waived. Use additional paper if necessary.

#### **First Separate Defense**

#### **Second Separate Defense**

#### **Third Separate Defense**

**FORM A**

**First Affirmative Defense**

**Second Affirmative Defense**

Wherefore, Defendant demands judgment:

- A. Dismissing the plaintiff's complaint;
- B. Awarding defendant costs incurred in defending against this action; and
- C. For such other relief as the court deems just and equitable.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

**FORM A**

**Certification Pursuant To *Rule 4:5-1***

The matter in controversy is not the subject of any other action pending in any other New Jersey court. There are no pending arbitration proceedings. No other action or arbitration proceedings are contemplated. No non-party is known who would be subject to inclusion or joinder in this case because of potential liability.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

**Certification of Mailing Answer to Court and to the Attorney for the Plaintiff**

I hereby certify that:

1. A copy of the within Answer was filed within the time prescribed by the Rules of Court.
2. On \_\_\_\_\_, I the undersigned, mailed to \_\_\_\_\_, Attorney for Plaintiff, at \_\_\_\_\_, by regular mail, a true copy of the within Answer.

I hereby certify that the statements made by me in this document are true. I am aware that if any are willfully false, I am subject to punishment

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

## Instructions for Completing the Foreclosure Case Information Statement (FCIS)

Use this as a cover letter for a party's first pleading. Plaintiffs must complete the **entire** form. Defendants complete **Section A only, print their name(s), and sign and date** the form at the designated area at the bottom.

### Section A

1. Under *Caption*, enter the name of the case (the name(s) of the plaintiff(s) vs. the defendant(s)). For example: John Doe, Plaintiff vs. Mary Smith, Defendant.
2. Under the *County of Venue*, enter the county where the property is located.
3. Under *Docket Number*, enter the docket number of your case, if known.
4. Under *Name(s) of Filing Party(ies)* enter your name and party type (plaintiff or defendant). For example: John Doe, Plaintiff or Mary Smith, Defendant.
5. Under *Document Type*, enter the type of paper are you filing. Select the appropriate checkbox for your filing:  Complaint,  Answer,  Other
6. Under *Attorney Name*, list the name of your attorney (if applicable). If you are not represented by an attorney, enter your name.
7. Under *Firm Name*, enter your attorney's firm name. If you are not represented by an attorney, leave this space blank.
8. Under *Mailing Address*, enter the mailing address of your attorney (if applicable). If you are not represented by an attorney, enter your address.
9. Under *Daytime Phone Number*, enter a telephone number (including area code) where you can be reached during the day.

### Section B (If you are the Plaintiff complete Section B. Otherwise skip to the signature section)

1. In the *Foreclosure Case Type Number* section, select the response that best describes your case.
2. In the next section select the appropriate response (yes or no) to each of the three questions. If you select "yes" for "Related Pending Case" list any and all docket numbers.
3. In the *Full Physical Street Address of Property* section, enter the **complete** physical address for the property being foreclosed on, including apartment number.
4. Enter the municipality code for the property being foreclosed on. (The Municipality Codes can be found at [http://www.njcourts.gov/forms/11343\\_municodes.pdf](http://www.njcourts.gov/forms/11343_municodes.pdf))
5. Enter the municipal block and lot numbers.

### Signature Section (To be completed by all parties)

1. Under *Attorney/Self Represented Signature*, either your attorney or you (if appearing *Pro Se*) must sign. If the document is being filed on behalf of more than one self-represented litigant, than all parties must sign and date the form.
2. Under *Print Attorney/Self Represented Name*, please print either your attorney's name or the names of **all** self-represented litigants for whom the document is being filed.
3. Date the form.
4. **Note:** when you fill out this form, you are certifying that the statements made on the form are true. If you willfully make false statements, you may be subject to punishment.

