

## **Answer Instructions for Debtors Without an Attorney**

### **Warning to Pro Se Debtors**

It is important that you speak to an attorney as soon as possible about your case. Information on where to find an attorney, sometimes at low to no cost, can be found on the Court's website. If you cannot afford an attorney or choose not to hire one, you may prepare an answer without an attorney (also known as "pro se") by following these answer instructions. Please note, however, that these instructions are merely a guide to assist you through the process and are not intended to be legal advice.

Also note that this form does not address pleading special matters under Federal Rule of Bankruptcy Procedure ("Federal Rule") 7009, pleading third party claims under Federal Rule 7014, or demands for a trial by jury under Local District Court Rule 406 (see Appendix B of the Local Bankruptcy Rules) and Local Bankruptcy Rule 9015-1. You may wish to review the Court's Local Bankruptcy Rules and section VII of the Federal Rules of Bankruptcy Procedure for further guidance regarding rules governing adversary proceedings.

### **What is an Answer?**

You have been sued in the U.S. Bankruptcy Court by one or more of your creditors, and you must now prepare an answer to the complaint filed by your creditor(s). The answer is your opportunity to respond to the case against you. If you do not file an answer, the Court may enter a default judgment against you. This means that you will lose the case. With the exception of responding to a Motion for Relief from Stay or Motion to Avoid Lien, Local Bankruptcy Rule 9013-1(b)(3) requires all responsive pleadings and memorandums in opposition to a motion (like your answer) to be filed within 14 days from the date of service.

### **Completing the Answer**

#### *Step 1: Filling in the Heading and Case Caption*

Fill in the blank spaces in the heading and case caption, at the top of the form, as follows:

- Under the heading at the top of the form enter either "Greenbelt" or "Baltimore" after "at" dependent on which division your case was filed in.
- In the space above the words "Plaintiff(s)" and "Defendant(s)," enter the party names as they appear in the case caption of the complaint.
- After the words "Case No.," enter the adversary complaint number listed in the complaint.

#### *Step 2: Responding to Plaintiff's Allegations*

##### I. Answer

Read plaintiff's complaint carefully. Each paragraph should be numbered. You must respond to each paragraph in one of three ways:

- If the information in the paragraph is true, enter the paragraph number under section 1 to admit. *Note:* If you admit that a statement is true, you are agreeing that every part of that statement is true.
- If any information in the paragraph is false, enter the paragraph number under section 2 (before the word “except”) to deny. If there are any portions of the paragraphs that you would like to admit, please specify those paragraph numbers and portions after the word “except.” *Note:* If you intend in good faith to deny all the statements in the complaint, a general denial of all allegations may be submitted. In this case, you may enter “all” under section 2.
- If you do not have enough information to determine whether the information in the paragraph is true or false, enter the paragraph number under section 3.

## II. Affirmative Defenses

You may have technical or legal defenses to the complaint, such as an argument that the statute of limitations (i.e., time limit to sue) has run or that the item you owe the debt for was defective. Affirmative defenses are those defenses that you could lose the right to claim if you fail to state them in your answer. You can review Federal Rules of Civil Procedure 8(b) through 8(d) for additional information on defenses.

## III. Counterclaims

You may also have a counterclaim, or a claim you would like to make against the plaintiff, who has sued you. If your claim(s) arise out of the same transaction or occurrence that the plaintiff is suing about, they should also be stated in your answer. For example, if your defense was that the item at issue was defective and you were harmed by that item, you could counterclaim for damages you suffered as a result of that injury.

In your counterclaim, you must state whether the claim is a core or non-core claim. A core claim is one “arising under” title 11 of the U.S. Code (which covers bankruptcy), or one “arising in” a case under title 11. Examples of core claims are provided in 28 U.S.C. § 157 (b)(2)(A)-(O) (i.e., title 28 of the U.S. Code, section 157, parts (b)(2)(A) through (O)). After filing an answer, but prior to trial, you may move for a ruling on whether the adversary proceeding is core or non-core, pursuant to Local Bankruptcy Rule 7012-1. See Federal Rules of Bankruptcy Procedure 7008 and 7013 for additional information on counterclaims.

If you have no affirmative defenses or counterclaims, at a minimum, you must respond to each paragraph of the complaint, as instructed in part I above, before completing step 2.

### *Step 3: Signing and Dating the Answer*

- After the word “DATED” you should enter the current date in the first blank, month in the second blank, and then year in the third blank. An example of a completed date line is: “DATED this 1<sup>st</sup> day of January, 2008.”
- Sign the top line on the right-hand-side of the form, under the date line.

### *Step 4: Providing Your Contact Information*

- In the space before the word “Defendant,” under the signature line, print or type your full name

- Enter your address, city, state, and zip code after the word “Address” on the next two lines.
- Enter your phone number, including area code, after the word “Phone” on the final line.

### **Certificate of Service**

Now that your answer is complete, you will need to complete a Certificate of Service. This is a one-page form that tells the Court that a copy of your answer was mailed to the plaintiff’s attorney and the United States Trustee. See the Certificate of Service form under Fill-In Forms on the Court’s website. Also, see Local Bankruptcy Rules 9013-4 and 9013-5 and Federal Rule of Civil Procedure 5 for guidance in completing the Certificate of Service.

### **How to File**

You can file your answer and Certificate of Service in person or by mail. To file in person, go to the Clerk’s Office at the division where your case was filed:

Baltimore  
 Garmatz Federal Courthouse  
 101 West Lombard Street, Suite 8530  
 Baltimore, MD 21201  
 410-962-2688

Greenbelt  
 Federal Courthouse  
 6500 Cherrywood Lane, Suite 300  
 Greenbelt, MD 20770  
 301-344-8018

It is important that you file the answer on time so the Court does not enter a default judgment against you. Make sure you know when the deadline is for filing your answer and that you keep a copy of the answer for your records (see the “What is an Answer?” section of these instructions for more guidance on filing deadlines and rules).

### **After You File**

Filing your answer is not the end of the work that is required in defending your case against an adversary complaint. After filing your answer, you may be required to attend a pretrial hearing, go through discovery, file (or respond to) pre-trial motions or documents, defend your case at your trial, and file post-judgment motions or documents.

- Pretrial hearings may be requested by the Court, pursuant to Local Bankruptcy Rule 7016-1(a). Your hearing date should be located on your Summons. If you have difficulty locating it, contact the Clerk’s Office (listed above).
- Discovery is a process where both parties are compelled to disclose pertinent facts or documents that relate to the subject of the dispute. Discovery is generally governed by Local Bankruptcy Rules 7026 and 9014-1, while Local Bankruptcy Rule 7005-1 governs the filing of discovery materials.
- Pretrial procedures, regarding filing a pretrial statement, the pre-filing of exhibits, and filing a proof of amount of claim or debt, are found in Local Bankruptcy Rule 7016-1.
- After judgment, if you wish to be awarded filing costs in excess of filing fees, you must file a Bill of Costs within 20 days of the entry of the judgment, in accordance with Local Bankruptcy Rule 7054-1.