

KNOW YOUR RIGHTS: ANSWERING FORECLOSURE PAPERS

This fact sheet explains how to fight a foreclosure case, file a foreclosure answer, and the settlement conference process.

When you are sued in a foreclosure case, you only have a certain amount of time to tell the court and the bank that you have defenses to fight the foreclosure. If you don't respond **in writing**, the bank can win the case without opposition. The writing is called an **ANSWER**.

YOU HAVE TWO OPPORTUNITIES TO ANSWER:

- You must answer within **20 days** of getting the foreclosure papers if you were given the papers in person. You must answer within 30 days of getting the foreclosure papers if they were mailed to you.
- You have a second chance to answer within **30 days** from your first *settlement conference*. A *settlement conference* is a meeting at the courthouse between you and whoever is suing you in foreclosure. You should receive a letter from the court telling you when it is scheduled. There is more about *settlement conferences* below
- You must both serve **AND** file an answer.

WHAT HAPPENS IF I DON'T ANSWER?

- If you don't **answer** the foreclosure complaint, the court will not be able to consider any *defenses* you might have to foreclosure. *Defenses* are legal theories or grounds for defeating the claims made against you in the lender's complaint based on the law or the facts.
- For example, if the bank says that you stopped paying your mortgage in January 2019, but you have proof that you paid your mortgage through January 2020, then that might be a *defense*.
- However, unless you **answer** the foreclosure complaint on time, you will not be able to use this *defense* to protect you in the foreclosure case.



917-661-4500

KNOW YOUR RIGHTS: PROTECT YOUR HOME FROM FORECLOSURE



HOW DO I FILE AN ANSWER?

- The best way to serve and file an **answer** is to seek free legal assistance. Even if a legal services provider is unable to take on your case for all purposes, they may be able to help you prepare an answer. Call the number below.

WHAT IS A SETTLEMENT CONFERENCE?

- A *settlement conference* is a meeting in the courthouse between you and the attorney for the party that is suing you in foreclosure. A referee oversees the meeting and has the power to direct each side to do certain things on a certain schedule; the referee also makes sure that both sides follow the court rules and the law.
- The purpose of the meeting is to see if you can settle the case in some way. Usually, a settlement will involve some type of loan modification or a one-time payment to catch up with the monthly payments. Sometimes, if a homeowner wants to move, the settlement could involve a voluntary sale of the home.
- If you don't show up for a scheduled *settlement conference*, the foreclosure case can move more quickly to the next stage of the foreclosure process and you are at more risk of losing your home. It is important to attend your first settlement conference.

CALL US FOR HELP!

- Legal Services NYC assists homeowners with answers, legal representation, and other services to prevent home loss. Call us at the number below.



917-661-4500

Legal Services NYC | 40 Worth Street, Suite 606, New York | legalservicesnyc.org

* The information in this factsheet does not constitute legal advice.