

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT COURT

_____ ,

Plaintiff,

v.

No. D-____-CV-____-_____

_____ ,

Defendant(s).

MOTION FOR LEAVE TO FILE AMENDED ANSWER

COMES NOW, the Defendant(s), _____, *pro se* and respectfully requests to amend his/her *pro se* Answer, as permitted by NMRA 1-015(A). Defendant states as follows:

1. The Complaint for Foreclosure in this case was filed on: _____.

2. Defendant(s) filed a *pro se* Answer on: _____.

3. Thereafter, (*check those that apply*):

a. ____ Defendant(s) obtained legal advice regarding how Defendant should respond to Plaintiff's Complaint.

b. ____ Defendant(s) did not fully understand the legal implications of their *pro se* Answer to the Complaint.

c. ____ Actions taken by Plaintiff or Plaintiff's agents since Defendant's Answer was filed have given rise to additional defenses and/or counterclaims in the foreclosure case.

d. ____ other _____

4. Plaintiff will not be prejudiced by the filing of the Amended Answer and justice requires that Defendant(s) be allowed to bring all defenses and counterclaims before the Court.

Rule 1-015(A) (“[L]eave shall be freely given when justice so requires.”).

5. A copy of the Amended Answer is attached to this motion.

6. The attorney for the Plaintiff has been contacted for agreement with this motion and:
___does agree to the filing; ___does not agree with the filing; or ___did not respond.
(check the one that applies)

WHEREFORE, the Defendant(s) asks the Court to:

1. Allow Defendant(s) leave to file the Amended Answer.

Respectfully submitted,

Signature

Name (printed)

Mailing address

City, State, Zip Code

Telephone number

Signature

Name (printed)

Mailing address

City, State, Zip Code

Telephone number

Certificate of Service

I hereby certify that a copy of this Motion was mailed/faxed/hand-delivered (circle one)
to the attorney for the Plaintiff on _____.
month/day/year

Signature

DO NOT FILE—INSTRUCTIONS PAGE

Disclaimer: The contents of this *pro se* Motion for Leave to File Amended Answer and instructions do not constitute legal advice. Foreclosure is a complicated area of law and it is strongly recommended that you contact a licensed NM attorney for advice about your specific case.

If you are not represented by an attorney you have the option of filing a Motion for Leave to File an Amended Answer for yourself or *pro se*. If you filed a *pro se* Answer to the Complaint for Foreclosure, and you would like the opportunity to change your Answer, you can file this Motion to ask permission from the Court to file a new, or amended, Answer. An Answer should respond to each paragraph of the Complaint, and you need to admit or deny the allegations, or state that you have insufficient knowledge to admit or deny the allegations contained in the specific paragraphs. An Answer should also raise affirmative defenses or counterclaims against the bank in the foreclosure case.

Before you file a Motion for Leave to File an Amended Answer, you should contact the Plaintiff's attorney and ask if they concur (agree) with your Motion to amend your Answer. If the Plaintiff's attorney concurs/agrees with your Motion AND they provide you with written permission to file the Amended Answer, you can just file the Amended Answer without the Motion. However, you should indicate on your Amended Answer that you received written permission from the Plaintiff's attorney to file the Amended Answer.

When you file the Motion for Leave to File an Amended Answer, you need to attach your proposed Amended Answer to the Motion, this is called an Exhibit.

Filling out the Motion:

1. Hand-write or type all of the information at the top of the first page of the Motion (called the caption) exactly as it is written on the first page of the Complaint, being sure to notate the appropriate court, plaintiff and defendant names, and case number.
2. Next, write in your name as Defendant, and fill in the date the Complaint was filed, the date you filed your Response/Answer, and indicate why you are asking to amend your Answer.
3. Finally, you need to contact the Plaintiff's attorney to see if they concur/agree with your Motion. Indicate on line 6 what the Plaintiff's attorney said in response to your Motion.
4. When you have written all of the information in double check everything and then sign and print your name, include your mailing address, and telephone number.
5. There is a Certificate of Service prepared at the bottom of your Motion for your use. This certificate is a statement that you have mailed a copy of your Motion and proposed Amended Answer to the Plaintiff's attorney. You should be sure to sign and date the Certificate of Service and mail out the copy of the Motion on the date indicated on the certificate.
6. Make two copies of the *pro se* Motion and your Proposed Amended Answer; take the original and two copies to the district court clerk for filing. The Clerk will stamp all three documents. The Clerk will keep the original and return the two copies to you. Mail one of the copies to the attorney for the Plaintiff and keep one for your records.

7. When the Court schedules a hearing on the Motion for Leave to File an Amended Answer, you should attend the hearing and explain to the Judge why you would like to amend your Answer.
8. If the Judge approves of your motion you will need to file your Amended Answer with the Court.