

Warning: If you have access to a lawyer, you should consider talking to your lawyer before filling out this form. You may accidentally give up important legal rights if you file this form with the Court without first consulting with a lawyer. For help finding a lawyer, call your local law referral service. You may also be able to talk to a lawyer for free at a legal advice clinic. For help finding a free legal advice clinic go to www.TexasLawHelp.org.

Instructions: If you decide to use this *Defendant's Answer* form:

- It does not cost anything to fill out or file this form.
- You must fill out this form completely and sign it before filing it.
- Turn in your completed answer form at the Courthouse where the *Petition* was filed and send a copy of the completed form to the Plaintiff or the Plaintiff's attorney.
- Keep a copy of all documents for your records.
- Attach:
 - ★ Any documents that you refer to in this form.
 - ★ Any additional pages as needed to complete paragraphs that don't provide enough space. Write the paragraph number on each additional page.
- If you have been served, you have a limited time to file an answer. In JP/ Justice Court, the answer is due by the end of the 14th day after you were served. If the 14th day is a Saturday, Sunday, or legal holiday, your answer is due by the end of the first day following the 14th day that is not a Saturday, Sunday, or legal holiday. **If you do not file an answer by the deadline, the Plaintiff can ask the court to enter a default judgment against you.**

Special Instructions

ANSWER

General Denial: I deny all of the Plaintiff's allegations in this complaint or petition. I request notice of all hearings in this case.

Note: Entering a general denial does not prevent you from raising other defenses at trial. Texas Rules of Civil Procedure Rule 502.2(b)).

1. **SPECIFIC PLEAS MADE UNDER PENALTY OF PERJURY**

This section may not apply to everyone. Read the full list to determine if it applies to you. Read Texas Rules of Civil Procedure Rule 93 for a complete list of specific pleas that must be verified or made under the penalty of perjury.

The plaintiff does not have the legal capacity to sue or the defendant does not have the legal capacity to be sued.

- *The plaintiff does not legally own the debt.*

The plaintiff is not entitled to recover in the capacity in which he sues, or the defendant is not liable in the capacity in which he is sued.

- *The account is not my account.*
- *I am not the person who incurred the debt.*
- *I did not authorize the charges on the account.*
- *No contract was ever signed between the plaintiff and me.*

There is another suit pending in this State between the same parties involving the same claim.

- *I have already been sued by the same party for the same debt.*

There is a defect of parties, plaintiff or defendant.

- *I am not the person who incurred the debt.*
- *I am not the person who placed charges on the account.*

Denial of the execution by himself or by his authority of any instrument in writing, upon which any pleading is founded, in whole or in part and charged to have been executed by him or by his authority, and not alleged to be lost or destroyed.

- *The debt is based on a contract that I did not sign or otherwise agree to.*
- *The account is not my account.*

A written instrument upon which a pleading is founded is without consideration, or that the consideration of the same has failed in whole or in part.

- *I did not receive anything in exchange for signing the contract on which the debt is based.*

A denial of an account which is the foundation of the plaintiff's action

- *The account is not my account.*
- *I did not authorize any charges to the account.*

A contract sued upon is usurious. Unless such plea is filed, no evidence of usurious interest as a defense shall be received.

- *The contract that the debt is based on includes illegal or extremely high interest rates.*

Upon information and belief, I am unable to determine whether the transfer of debt was correctly executed and is genuine.

- *Plaintiff has not proven that it can legally collect this debt.*
- *Plaintiff has not proven that it owns this debt.*
- *Plaintiff cannot use only parts of a document to prove it owns the debt, but must introduce the entire document.*

2. AFFIRMATIVE DEFENSES

This section may not apply to everyone. Read the full list to determine if it applies to you. Read Texas Rules of Civil Procedure Rule 94 for a list of affirmative defenses. Ask a lawyer which affirmative defenses apply to your case.

Note: An affirmative defense is an independent reason that the Plaintiff should not win the lawsuit. If an affirmative defense is successful you could win the lawsuit, even if what the Plaintiff says is true. If you file an answer and do not claim an affirmative defense, you may not be able to claim the defense later. A few specific examples of when the particular defense may arise can be found in italics below the defense category. Further explanation of each affirmative defense can be found at <https://texaslawhelp.org/resource/affirmative-defenses-guide-information-and-examples>.

Payment:

- *The debt has been paid in full or excused.*

Statute of limitations:

- *The debt is more than 4 years old (i.e. the debt is more than 4 years past due).*

The complaint fails to state a claim on which relief can be granted:

- *The complaint does not state why they are entitled to collect any money from me.*

Accord and Satisfaction:

- *I paid an amount of money less than the amount the plaintiff is asking for and that amount was accepted as satisfying the debt.*

Arbitration and Award:

- *This dispute has previously been decided in arbitration.*

Contributory negligence:

- *After taking my property, the creditor or its representatives did not sell the property in a commercially reasonable manner.*
- *After taking my property, the creditor or its representatives did not give me proper notice (i.e. did not tell me) of the date, time, and place of sale.*
- *The creditor failed to mitigate damages (i.e. the creditor failed to take actions to protect itself and/or minimize the amount of the alleged debt).*

Discharge in Bankruptcy:

- *This debt has been discharged in bankruptcy.*
- *Check this box if you filed bankruptcy after you got this debt and the debt was included in your bankruptcy case.*

Duress:

- *The creditor physically forced me to agree to the contract.*
- *The creditor threatened me in order to get me to agree to the contract.*

Estoppel:

- *I relied on a statement that the debt was paid and that no further payments were required.*
- *I was a cosigner but was not informed of my rights as a cosigner.*

Failure of consideration:

- *I never received the goods and/or services that I was promised in exchange for the debt.*
- *The products and/or services I was promised in exchange for the debt were defective or unacceptable.*
- *The debt is based on a contract for which I did not receive anything in exchange.*
- *The debt is based on a contract that I did not sign or otherwise agree to.*

Fraud:

- *The creditor lied to me or tricked me to get me to agree to the contract that the debt is based on.*

Illegality:

- *The debt is based on a contract that is illegal.*

Laches:

- *The creditor unreasonably delayed in bringing the claims against me and the delay made it more difficult for me to assert my rights or defenses.*

Release:

- *I previously paid the debt in full.*
- *I paid an amount of money less than the amount the plaintiff is asking for and that amount was accepted as satisfying the debt.*
- *I legally cancelled the contract and do not owe anything.*
- *The creditor cancelled the contract and is not entitled to payment.*

Res judicata:

- *Another court has already decided the issues in this complaint.*

Waiver:

- *The creditor gave up his rights, either orally or in writing, to bring charges against me.*

3. REQUEST FOR JUDGMENT

- ✧ *I ask the court to dismiss the Complaint with prejudice.*
- ✧ *I ask the court to award me attorney fees and court costs.*
- ✧ *I ask the Plaintiff take nothing from this lawsuit.*
- ✧ *I also ask for such relief as the court finds equitable and just.*