



# Answering A Debt Collection Lawsuit

**Note:** Use these forms and instructions to answer a “Complaint” filed against you in court by a creditor or debt collector. Debts can be sold to a debt collector so you may not recognize the name of the company that sued you. The name of the original creditor should be in the Complaint.

These instructions and forms may not be right for your case. They cannot take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Print the forms in this packet single-sided, with writing on one side of the page. Do not change these forms. If you change the forms, you might lose language you need.

## What Forms Will I Need to Answer a Complaint?

You will need to fill in and file the following forms to answer the Complaint:

- Answer
- Judgment
- Statement of Inability to Pay Court Costs and Fees (This is an optional form that’s not included in this packet. Ask the Clerk of Court for this form if you can’t afford the fee the court charges to file your Answer.)

You must complete and sign the **Answer**. It tells the court if you admit or deny the information in the Complaint. The Answer also describes some defenses that may be true for you. If you have any questions about whether a defense applies to your situation, talk to a lawyer right away. After you complete and sign the Answer, you must send a copy of it to the Plaintiff named in the Complaint.

The **Judgment** is for the judge to fill in, except for the caption that you will fill in. It tells you the judge’s decision. When the judge decides your case, the judge may choose to fill out the Judgment that is part of this packet or the judge may write out their own Judgment.

The **Statement of Inability to Pay Court Costs and Fees** is a form you can use to ask the court for permission to not pay the fees the court charges to file your Answer. This form is not included in this packet. If you cannot afford to pay the filing fee for the Answer, ask the Clerk of Court for a Statement of Inability to Pay Court Costs and Fees form. Courts may use different names for this form. It is often called a “Fee Waiver” form.

The Statement will require you to provide information about your income and expenses. After you fill out the Statement and sign it, the Clerk of Court will give it to the judge to review. If the judge decides that you cannot afford the filing fee, the judge will allow you to file your Answer without paying the filing fee. If the judge decides that you can afford the filing fee, the judge will not allow you to file your Answer until you pay the filing fee.

**Important:** File your Statement of Inability to pay Court Costs and Fees early! You must file your Statement before you can file your Answer without paying the filing fee. In “How Long Do I Have to Answer” below, you can read about the time limit to file your Answer. If you are filing a Statement of Inability to Pay Court Costs and Fees, you need to allow the judge enough time to review your Statement. If the judge has not approved your Statement, the Clerk of Court may not accept your Answer for filing without payment of the fee, even if it is the last day you are allowed to file your Answer.

## **What Words Do I Need to Know?**

A **Plaintiff** is someone who files a lawsuit in court. If a credit card company has filed a Complaint asking the court to make you pay a debt, the credit card company is the Plaintiff. The Plaintiff is one of the Parties to a lawsuit.

A **Defendant** is someone who is being sued. If you are being sued by a credit card company to make you pay a debt, you are the Defendant. A Defendant is one of the Parties to a lawsuit.

**Note:** Only the person named as a Defendant in the Complaint is being sued. A creditor or debt collector must name as a Defendant each person they want to collect from. For example, if two spouses share a debt, the creditor or debt collector must name both spouses as Defendants in the Complaint if the creditor or debt collector wants to collect from both of them. If the creditor or debt collector files the Complaint against only one spouse, the creditor would only be able to garnish that spouse's wages or seize assets in their name.

With an **Affirmative Defense** you tell the court there is a reason you are not responsible or are only partly responsible for the debt. You must check the appropriate box(es) for any affirmative defense that applies to you. If you tell the court you have an affirmative defense, be prepared to support it with evidence and/or laws at your hearing. Evidence means documents, witness testimony, or other proof that what you are saying is true. If you have any questions about whether an affirmative defense applies to you, talk to a lawyer right away.

Not being able to afford to pay back the debt is **not** an Affirmative Defense. The judge will only decide if you legally owe the debt, not whether you can pay it back.

**Important:** This Answer form does not let you tell the court you have a counterclaim. A **counterclaim** is when you ask the court to order the person or company who sued you to pay you money for some reason.

The law requires you to make a counterclaim with your Answer. If you do not ask the court for that money now in a written counterclaim with your Answer, you may not be allowed to ask for it later, even if you file a separate lawsuit against the Plaintiff.

If you want to make a counterclaim against the Plaintiff, do **NOT** use this form. Talk to a lawyer right away.

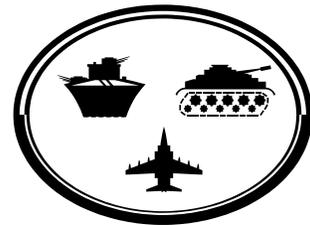
A **Creditor** is a person or company you owe money to. For example, when you have an unpaid medical bill the doctor or hospital is a creditor.

A **Debt Collector** is a person or company that is asking for payment on a debt that was originally owed to a creditor. The debt collector may have bought the debt from the creditor or may be hired to collect the debt for the creditor.



## Who Can Use These Forms?

You can use these forms if a creditor or debt collector has filed a Complaint against you. The court paperwork will refer to the creditor or debt collector as the Plaintiff.



## What if I am an Active Duty Servicemember?

If you are on active duty in the military, the Servicemembers Civil Relief Act (SCRA) may apply to you and your dependents. Part of the SCRA may help protect you while on active duty. Most parts of the SCRA do not apply automatically. You must take actions to say the SCRA applies to you. For more information, contact your nearest Armed Forces Legal Assistance (AFLA) office or commanding officer. To find an AFLA office near you, go to the AFLA website at [legalassistance.law.af.mil/](http://legalassistance.law.af.mil/).

## How Long Do I Have To Answer?

If the Complaint was filed in Justice or City Court you have 20 days to file your written Answer with the Clerk of Court. If the Complaint was filed in District Court you have 21 days to file your Answer with the Clerk of Court. When you count the days, start the day after you were served. If the last day is on a Saturday, Sunday, or other day the court is closed, you must file your answer on the next day the court is open.

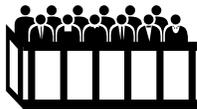
If you don't file your Answer within the time allowed after you were served with the Complaint, the Plaintiff can ask the court for a default judgment. If the court allows a default judgment, you won't get to tell the judge your side of the story. That means that the Plaintiff will automatically get a court order that says you are

legally responsible for whatever money amount they asked for in the complaint, plus court costs and interest. Once there is a judgment, the Plaintiff can make attempts to collect on from you by garnishing your wages or levying your bank account.

## **Where Should I File My Answer?**

You need to file your Answer at the same court where the Plaintiff filed the Complaint. You can find the name of the court at the top of the plaintiff's Complaint.

## **Can I Have a Jury Trial?**



You have a right to a jury trial, but you do not have to have one. If you tell the court that you want a jury trial, you may be required to pay for the costs of the jury trial. Costs of a jury trial include a stipend and travel expenses paid to each juror. Jury trials can be expensive. The State will not pay for the cost of the jury for you. It may also take longer to get a hearing if you request a jury trial. If you do not have a jury trial, a judge will decide your case. If you want a jury trial, print "I REQUEST A JURY TRIAL" under the word "Answer" on the first page of your Answer. If you write this, you are telling the court that you will pay the costs for the jury trial. The court may ask you about this, especially if you have filed a Statement of Inability to Pay Court Costs and Fees or other fee waiver form.

## **How will the Judge Decide My Case?**

The judge will only decide whether you legally owe the debt. Not being able to pay the debt isn't a legal defense. The judge won't consider your ability to pay back the debt. The judge can decide you still owe the debt even if all of your income and assets are exempt from collection.

## How Do I Use These Forms?

### 1 Fill in the Forms

- Fill in all of the blanks in the Answer form.
  - In paragraph number 1, admit the parts of the Complaint that are true;
  - In paragraph number 2, deny the parts of the Complaint that are not true;
  - In paragraph number 3, deny the parts of the Complaint that you do not know are true or not true.



**If the paragraphs in the Complaint are numbered**, you can list the paragraph numbers in the blanks instead of rewriting what is written in the Complaint. For example, in the blank in paragraph 1 of the Answer form, you could list “2, 5, 6, 8,” which would tell the court you admit those paragraphs in the Complaint are true. If a paragraph is only partly true, write what part you admit and explain why the rest of the paragraph is not true.

**If the paragraphs in the Complaint are not numbered**, you need to write what parts of the Complaint you are admitting, denying, or saying you do not know enough about. For example, suppose that the Complaint says you incurred a medical bill in 2018, and failed to make any payments on it. In your Answer, you could admit you incurred the medical bill in 2018, but deny that you failed to make any payments.

- Check the boxes on the Answer form for any affirmative defenses that are true.
- Sign the Answer.

**WARNING:** If you admit everything in the Complaint and do not have an affirmative defense, there will not be a hearing. The judge will find you responsible for paying back the full amount listed in the Complaint. That includes any debts, interest, and/or fees they ask for in the Complaint. By admitting everything, you are telling the judge that you agree with what the Plaintiff has said in the Complaint. If you are both in agreement, there is no reason for the judge to hold a hearing to find out what is true.

- Complete and sign the Proof of Service
- On the Judgment form, you will fill in only the caption. You need to use the same name of the court at the top of your Plaintiff's Complaint. The judge will fill out the rest. The caption looks like this:

<p><b>In the</b> (check <b>one</b> box and fill in the blanks for the court where you are filing):</p> <p><input type="checkbox"/> <b>Justice Court of</b> _____ <b>County,</b> (county of court where you are filing)</p> <p><input type="checkbox"/> <b>City Court of</b> _____, (city of court where you are filing)</p> <p><input type="checkbox"/> <b>Municipal Court of</b> _____, (city of court where you are filing)</p> <p><input type="checkbox"/> _____ <b>Judicial District Court of</b> _____ <b>County,</b> (number of district) (county of court where you are filing)</p> <p style="text-align: center;"><b>State of Montana</b></p>	
<p>_____, Plaintiff, v. _____, (your name) Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled out by court)</p> <p><b>Name of Form</b></p>

**2 Make Copies**

- Make two copies of your completed Answer including any attachments.
- Make one copy of the Judgment.

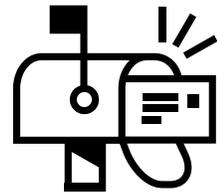
**3 File the Forms at the Courthouse**

- Go to the office of Clerk of Court where the Plaintiff filed the Complaint.
- If you cannot afford the fee for filing your Answer, ask the Clerk of Court for a Statement of Inability to Pay Court Costs and Fees. This form may be called something different in your court.
- File your original Answer with the clerk.

- Ask the clerk to date stamp your two copies of the Answer. One copy is for you to keep. Mail the other copy to the Plaintiff named in the Complaint. Be sure to take your copy of the Answer with you to your hearing.
- Give the Judgment to the clerk. Ask the clerk to lodge the Judgment in the file. Lodging means that the clerk will not officially file the document in your court file, but will just keep the Judgment inside the court file so the judge can look at it in the future. If the clerk will not lodge the Judgment, you will need to keep the Judgment in a safe place until your hearing. You will need to take the Judgment with you to the hearing so you can ask to give it to the judge then.

#### **4 Mail your Answer**

- On the same day you file your Answer, mail a date stamped copy of your Answer to the Plaintiff who sued you. This should be the date in your Proof of Service. Use the address on the top left hand corner of the first page of the Complaint. Or the address may be somewhere else in the Complaint, usually the first or last page. If the Plaintiff has a lawyer, this will be the lawyer's address. The Proof of Service is a sworn statement that tells the court that you mailed a copy of your Answer to the Plaintiff on the date you said you did.
- Another option is to use the United States Postal Service Certificate of Mailing. This service is optional. The Proof of Service already shows that you mailed your Answer on a specific date. However, you can pay a fee to get a Certificate of Mailing. The post office receipt that you get from the post office will also show the court that you mailed your Answer to the correct address on a certain date. If



you decide to use a Certificate of Mailing, be sure to take your receipt with you to your hearing.

## 5 Wait for an Order Setting Hearing

- Check your mail daily. After you file your Answer, the court will mail you a written notice of the next steps in your case. If you do not hear from the court within seven days after you file your Answer, call the Clerk of Court and ask about the hearing date.
- Make sure you attend all hearings the court schedules. They aren't optional.
- If you want any witnesses to testify at your hearing, you may need to subpoena them before the hearing. A subpoena orders a person to come to court even if the person does not want to. Once you know the hearing date, you can ask the Clerk of Court for subpoena forms.

## 6 Go to Your Hearing

- Bring your stamped copy of your Answer and any other documents you filed with the court with you to your hearing. You will also need to bring the Judgment if the clerk would not let you lodge it when you filed your Answer.
- Arrive at the courthouse at least 15 minutes before your hearing will start. Dress like you are going to an important job interview.
- Check with the Clerk of Court's office to find the right courtroom for your hearing. In some courts, you will have to check in with the Clerk of Court before going to your courtroom. After you have talked to the Clerk of Court, go to your courtroom and wait for the judge to say your name and case number. Remember to call the judge "Your Honor."



- If the clerk would not let you lodge the Judgment when you filed your Complaint, you may need to give it to the judge. At the beginning of the hearing, when the judge asks if you are ready, tell the judge “Your Honor, I have a proposed judgment form for your consideration.” Then ask if the judge wants you to hand the Judgment form to him or her. The judge may or may not take the Judgment form from you. It is okay if the judge does not want the Judgment form.
  
- Be prepared to tell the judge your side of the case, including why you aren’t responsible for the debt. The reasons why you may not be responsible for the debt (or the full amount) are your Affirmative Defenses, which are listed in the Answer. Show the judge your papers and things that support what you say. Tell the judge if you have witnesses who will testify. The judge will expect you to bring your evidence and witnesses to the hearing. Evidence can be witness testimony, documents, photographs, or anything else that helps to prove your side of the story. You will need three copies of any documents or pictures you want the judge to look at.



### **Where Can I Get More Information?**

You can find free legal information and court forms at [MontanaLawHelp.org](https://montanalawhelp.org). You can also use the free interactive Debt Options Tools at [MontanaDebtOptions.org](https://montanadebtoptions.org) for information on what debt collectors are not allowed to do and what income and property is protected from debt collection.

The laws of Montana are called the Montana Code Annotated or “MCA.” The way to write out a part of the law is § 27-2-202, MCA. The symbol § means section. The MCA can be found at your local library or on the Montana State Law Library website at [courts.mt.gov/Library](https://courts.mt.gov/Library).

## Where Can I Get Legal Help?

These organizations may be able to help you:

- **Montana Legal Services Association** (MLSA) gives free legal help to low-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899 or apply online at [mtlsa.org](http://mtlsa.org).
- **MontanaLawHelp.org** provides free legal information and court forms.
- **The State Bar Lawyer Referral Service** (LRS) refers people to Montana lawyers who might be able to help. Call LRS at 1-406-449-6577 or find it online at [MontanaBar.org](http://MontanaBar.org).
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at [courts.mt.gov/library](http://courts.mt.gov/library). Or you can contact a Reference Librarian at (800) 710-9827 or by email at [mtlawlibrary@mt.gov](mailto:mtlawlibrary@mt.gov).

## Please take a short survey about these forms.

When you are done with the forms, please take our online survey at this address:

<https://www.surveymonkey.com/r/H3P8MCQ>.



Your answers will help make the forms better. Thank you!

\_\_\_\_\_  
(your name)

\_\_\_\_\_  
(your mailing address)

\_\_\_\_\_  
(city) (state) (zip)

\_\_\_\_\_  
(your phone number)

**Defendant Pro Se**

**In the** (check **one** box and fill in the blank for the court where you are filing):

**Justice Court of** \_\_\_\_\_ **County,**  
(county of court where you are filing)

**City Court of** \_\_\_\_\_,  
(city of court where you are filing)

**Municipal Court of** \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_\_ **Judicial District Court of** \_\_\_\_\_ **County,**  
(number of district) (county of court where you are filing)

**State of Montana**

<p>_____, (name of the debt collector)</p> <p>Plaintiff, v.</p> <p>_____, (your name)</p> <p>Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled out by court)</p> <p><b>Answer</b></p>
--	--

I am a Defendant in this case. I answer the Plaintiff's Complaint in the paragraphs below:

1. I admit the following parts of the Complaint (*list the paragraph numbers or write the parts of the Complaint that are true*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. I deny the following parts of the Complaint (*list the paragraph numbers or write the parts of the Complaint that are not true*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. I deny the following parts of the Complaint because I do not have enough information to admit or deny them (*list the paragraph numbers or write the parts of the Complaint that you do not know about*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. I deny everything I did not admit.

I also have the following defense(s) to the Complaint (*check and fill in the blanks for **any** box that is true*):

- The Plaintiff sued me in the wrong court.
  
- I don't owe the debt alleged in the complaint because:
  - I am a victim of identity theft or mistaken identity;
  - I already paid this debt;
  - I don't know where this debt came from (did not receive services or have a relationship with the original creditor);
  - I don't have a business relationship with the Plaintiff/Plaintiff lacks standing to sue me;
  - I previously discharged this debt in bankruptcy;

- The debt alleged in the complaint is outside the statute of limitations;
- The creditor did not follow the law when they repossessed the property and sold it.
  
- I dispute the amount of the debt alleged in the complaint.
  
- Other (*any other legal reason that you don't owe the debt*):  
\_\_\_\_\_  
\_\_\_\_\_.

**Request for Relief**

I respectfully ask the Court:

1. That the Plaintiff take nothing by the Complaint; and
2. For any other relief that is proper, including awarding court costs to me, if I paid any court costs.

Date: \_\_\_\_\_  
(*mm/dd/yyyy*)

Signature: \_\_\_\_\_  
(*sign your name*)

Printed Name: \_\_\_\_\_  
(*print your name*)

## Proof of Service

I sent, or am sending as soon as I have filed my Answer, a full and complete copy of my Answer to the Plaintiff by first class mail, postage prepaid on

\_\_\_\_\_  
*(date you mailed or are mailing the Answer to the Plaintiff)*

This is the address I am using to mail a copy of my Answer to the Plaintiff:

Name: \_\_\_\_\_  
*(Plaintiff's name)*

Address: \_\_\_\_\_  
*(Plaintiff's address)*

\_\_\_\_\_  
*(city)*

\_\_\_\_\_  
*(state)*

\_\_\_\_\_  
*(zip)*

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

Signature: \_\_\_\_\_  
*(sign your name)*

Printed Name: \_\_\_\_\_  
*(print your name)*

Location signed: \_\_\_\_\_

**In the** (check **one** box and fill in the blank for the court where you are filing):

**Justice Court of** \_\_\_\_\_ **County,**  
(county of court where you are filing)

**City Court of** \_\_\_\_\_,  
(city of court where you are filing)

**Municipal Court of** \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_\_ **Judicial District Court of** \_\_\_\_\_ **County,**  
(number of district) (county of court where you are filing)

---

**State of Montana**

---

\_\_\_\_\_,  
(name of the Plaintiff)

Plaintiff,  
vs.

\_\_\_\_\_,  
(your name)

Defendant(s).

Cause No.: \_\_\_\_\_

Dept. No.: \_\_\_\_\_  
(filled out by court)

**Judgment**

---

(Rest of form to be filled out by court.)

A Complaint was filed in this case. A hearing was held on: \_\_\_\_\_.

Defendant appeared in person, and Plaintiff:

- Appeared in person:
  - With counsel.
  - Without counsel.
- Did not appear.

Based on the testimony and evidence presented, the court makes the following:

**Findings of Fact and Conclusions of Law:**

1  Defendant owes the full amount alleged in the complaint because:

---

---

---

---

---

Defendant does not owe the debt alleged in the complaint because:

- Defendant is a victim of identity theft or mistaken identity;
- Defendant already paid this debt;
- Defendant previously discharged this debt in bankruptcy;
- Plaintiff lacks standing to sue the Defendant;
- The debt alleged by the Plaintiff is outside the statute of limitations;
- Other:

---

---

---

---

The Defendant owes only some of the amount alleged in the complaint as follows:

---

---

---

---

**Order:**

This Court orders that:

- The Defendant owes the Plaintiff \$\_\_\_\_\_,. The Court awards judgment to Plaintiff in the sum of \$\_\_\_\_\_ along with costs of court in the amount of \$\_\_\_\_\_ for a total judgment of \$\_\_\_\_\_ together with interest thereon at the rate permitted by § 25-9-205, MCA from the date of this judgment until paid in full. Plaintiff is granted the right of execution on the judgment.
- The Defendant does not owe money to Plaintiff.
- The Plaintiff takes nothing by this lawsuit.
- Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.

This is a final judgment.

Signed on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Judge