

# **Respond to a debt collection lawsuit**

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If you're sued over a debt, you must respond in writing or risk losing by default. This guide will help you respond properly and on time to avoid a default judgment and defend your case. (Answer and Affirmative Defenses form and instructions)

## **1. Fast facts**

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### **Fill out forms online**

- [Answer and affirmative defenses to debt collection](#)

### **How do I know if there's a lawsuit against me?**

The person or business you owe is called the creditor. The creditor must start the lawsuit against you by having a copy of their Summons and Complaint delivered to you so you will know you're being sued.

In the lawsuit, the creditor is the Plaintiff. If the lawsuit is against you, you're the Defendant.

If the lawsuit names you as a Defendant, you must respond, even if you think the debt isn't yours!

The lawsuit might be against you and JOHN DOE or JANE DOE. This may be because the creditor believes you're married but doesn't know your spouse's name. If you're married and the complaint names your spouse (their actual name or JOHN or JANE DOE), you must **both** respond to the Complaint.

### **Do I have to respond to the Complaint?**

**No, but** if you don't respond, the court will enter a default judgment against you. Respond to the Complaint if you want to defend the lawsuit.

If you don't respond to the Complaint, the creditor will win automatically. The creditor will get a judgment for everything they asked for in the complaint. The creditor may collect their judgment by taking money from your bank account or paycheck, or some property. This will also hurt your credit.

### **I offered to make small payments on my bill or told the creditor I would make full payments as soon as possible. Can the creditor sue me anyway?**

Yes. The creditor can file a lawsuit. If the creditor wins, the judge will add the costs of that case to what you owe. The creditor doesn't have to accept anything less than what you owe.

### **I can't afford to pay the debt. Can they sue me anyway?**

Yes. That isn't a defense. You can still file an answer to the lawsuit to make them prove their case.

### **I think my income or assets are protected from garnishment. Can they sue me anyway?**

Yes. That isn't a defense, although it might stop them from collecting money from you if they win. You still must respond to the lawsuit. Tell the creditor in your response if you have benefits and/or retirement income that can't be garnished. Also try to talk to a lawyer.

## **2. Summons and Complaint**

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The person starting a lawsuit must prepare a written statement telling the judge what the problem is and what they want. That statement is the **Complaint**. In the Complaint, the creditor makes statements about you and about debts that the creditor believes you owe. **The creditor saying things about you in the complaint doesn't make them true.**

You can respond by filing an **Answer**. The Answer is your chance to tell the court which of the creditor's statements are true and should be admitted, which aren't true and should be denied, and which statements you don't know or understand, or can't remember if it's true (should be denied for lack of information).

You will also get a **Summons** that says:

- You have a right to disagree with the Complaint in writing.
- What your deadline is to answer the Complaint. You have 20 days from the date the Complaint is handed to you or someone in your home, **not** 20 days from the date stamped on the Summons and Complaint.
- Where to deliver your Answer.

A Summons isn't a notice of a court hearing date. It gives instructions about how to respond to the complaint.

If you don't tell the court in writing that you disagree with the statements in the Complaint, the judge will assume you agree with it and will often give the creditor what the creditor asked for.

**The creditor wins by default if you haven't answered.** If the court enters a Default Judgment against you, you will not get notice of the Judgment if you haven't at least filed a Notice of Appearance.

Once the creditor gets a judgment against you, the creditor may be able to take money from your bank account, paycheck, or take some of your property to pay the judgment.

### 3. Respond

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You must file a **written response** (called an "Answer") within the time limit in your Summons. It's usually **20 days** from the date a server hands the papers to you or someone in your home. Read the Summons carefully for the deadline.

You may respond by delivering to the person who signed the Summons and Complaint one of these:

- A Notice of Appearance
- An Answer

You can fill out these forms online or download them to print and fill out by hand.

If the case has been filed in court, you must also file your completed forms with the Court Clerk.

You can be served with a lawsuit before the case is filed in court. Look for a case number on the papers you received. It should be on the top right of the first page. **If there's a case number, the case has been filed.** If you **don't** see a case number, it may not be filed yet. You can call the court clerk to check.

By filing an Answer in time, you keep your rights to argue about this matter in court and to get notice of future hearings.

You may feel embarrassed or guilty about being in debt. You may just want it all to be over. **You should still file an Answer. It doesn't mean you're trying to avoid your debts.** You may disagree with the amount the creditor asked for in the Complaint. You may want to preserve your right to get notice of future hearings.

If you don't file an Answer, you may lose your chance to say how much you think you should pay.

If you file an Answer and lose the court case, you may owe the creditor more court costs and attorney fees.

## 4. Step-by-step

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## Step-by-step

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**1. Respond on time!** You must file your Answer or Appearance within the time limit listed in your Summons (usually **20 days** from when you were served). If you've already missed your time limit, file an answer anyway. A late answer may be better than no answer at all.

**2. Fill out these forms:**

- Notice of Appearance
- Answer and Affirmative Defenses to Debt Collection

You can fill out these forms online or download them to print and fill out by hand.

**3. Make 2 copies:** 1 for yourself, and 1 for the creditor (or their lawyer)

**4. Serve a copy** on the creditor. If the creditor has a lawyer, serve the lawyer.

You can do this yourself or have someone else do it for you. You can always serve by hand delivery or mail. You can serve by email or fax only if the other party (or their lawyer) says they accept service that way in their papers, or if your court's local rules allow it.

For hand delivery, the other party (or lawyer) must receive their copy by the deadline. Ask them or their office staff to date-stamp your copy.

For mailing, you must put the copies in the mail at least **3 days before** the deadline. Ask the Post Office for tracking or delivery confirmation.

You (or your server) must fill out and sign the Proof of Mailing or Hand Delivery. Make 1 copy.

5. **File the originals.** Take all the original forms to the clerk of the court and file them. Have your copies date-stamped to prove they were filed. Keep your copies.

If there's no case number, skip this step.

6. Once you've timely filed your Answer and served the creditor's lawyer, you should get notice of any **court dates (hearings)**. If you're too late and the court has entered a judgment against you, try to talk to a lawyer right away.

## 5. Forms

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Form attached:

**Proof of Mailing or Hand Delivery (general civil)** (NJP General 002)

Form attached:

**Answer and Affirmative Defenses to Debt Collection** (NJP Debt 101)

Form attached:

**Notice of Appearance (general civil)** (NJP General 005)

Gather all the papers that were served on you. You'll need them to fill out the forms. You need to know:

- The name of the party suing you
- The number of your case (if there is one)
- The name of the Court and County where the creditor is suing you

You can usually find this information at the top of the first page of the court papers you received.

Follow the general rules to format and fill out court documents.

## Tips for filling out the Answer (NJP Debt 101)

**Form section 1. Answer.** State if you **admit, deny, or don't know** for each statement made by the creditor. Don't admit any statement unless you know it's 100% true. **Don't guess!** If you don't know if the account number listed is your credit card number or if the amount the creditor says you owe is correct, **deny** the statement. If you don't understand what the creditor is saying, say you **don't know**.

**Form section 2. Affirmative Defenses.** Read the options carefully. Check any defenses that are true for your situation.

It's enough of a defense to simply deny owing the debt **or** the amount of the debts, if that is true in your case. The creditor still must prove that you owe the debt if you denied owing it.

If you have other legal defenses, you must say so in your Answer. These are called "affirmative defenses" because if you don't include them in your Answer, you may lose the right to use that defense later in the case.

**What is the "debt buyer" defense?** A "debt buyer" includes collection agencies and anyone else who buys delinquent or charged off claims for collection purposes. When a debt buyer files a lawsuit, they must attach a copy of the contract to the complaint and state certain facts. The requirements are complex. Try to get legal help if you think the creditor is a debt buyer.

Some of the most common debt buyers are:

- Portfolio Recovery Associates
- LVNV Funding
- CACH
- Jefferson Capital
- Midland Funding or Midland Credit Management
- Calvary SPV
- Unifund

**Form section 3. Notice of exempt public benefit and/or retirement income.**

Check if you have any of the types of income listed so the creditor knows they can't take it from you.

**Form section 4. Request.** Read the request.

**Fill out the signature area below the Request.** Put the date and place you're signing this form. Sign and print your name.

Check at least one box for how you want to receive legal papers for this case. It doesn't have to be your home address. It can be an address "in care of" another person you trust. If you want, you can agree to receive legal papers by email.

**Whatever address you put, you must check it regularly!**

**Privacy Warning!** Don't use a confidential address. Once you file your form in court, it will be a public record that anyone can see.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our [Get legal help](#) page.



\_\_\_\_\_ **Court of Washington, County of** \_\_\_\_\_

Petitioner or Plaintiff:

\_\_\_\_\_

And Respondent or Defendant:

\_\_\_\_\_

No. \_\_\_\_\_

Proof of Mailing or Hand Delivery  
(No mandatory form)

## Proof of Mailing or Hand Delivery

Server declares:

**1. I am (check one):**

- ☐ the Petitioner or Plaintiff  
☐ the Respondent or Defendant  
☐ (name): \_\_\_\_\_

and I am competent to be a witness in this case.

**2. Service.** On (date): \_\_\_\_\_, I served copies of court documents  
to (name of party or lawyer served): \_\_\_\_\_ by:

☐ **mail (check all that apply):** ☐ first class ☐ certified ☐ other

\_\_\_\_\_  
Mailing address city state zip

☐ **email to (address):** \_\_\_\_\_  
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ **fax to (number):** \_\_\_\_\_  
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ **hand delivery at (time):** \_\_\_\_\_ (check one) ☐ a.m. ☐ p.m. to this address:

\_\_\_\_\_  
Street address city state zip

**For hand delivery:** I left the documents (*check one*):

- ☐ with the party or lawyer named above.
- ☐ at the lawyer's office with the clerk or other person in charge.
- ☐ at the lawyer's office in a conspicuous place because no one was in charge.
- ☐ with (*name*): \_\_\_\_\_, at the address listed in court documents where the party agreed to receive legal papers for this case.

**3. List all documents you served (*check all that apply*)**

*(The most common documents are listed below. Check only those documents that were served. Use the "Other" box to write in the title of each document you served that is not already listed.)*

- ☐ Notice of Hearing (*for date*) \_\_\_\_\_
- ☐ Motion for \_\_\_\_\_
- ☐ Declaration of \_\_\_\_\_
- ☐ Order on/for: \_\_\_\_\_
- ☐ Other:

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**4. Other information (if any)**

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I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (*city and state*): \_\_\_\_\_ Date: \_\_\_\_\_



\_\_\_\_\_  
*Server signs here*

\_\_\_\_\_  
*Print name*

|   |  |
|---|--|
| _____ <b>Court of Washington, County of</b> _____ |  |
| Plaintiff/s:<br><br>_____                         | No. _____<br><br>Answer and Affirmative Defenses<br>to Debt Collection |
| Defendant/s:<br><br>_____                         | (No mandatory form)  |

## Answer and Affirmative Defenses to Debt Collection

*Use this form to respond to the Complaint in a debt collection lawsuit.*

### 1. Answer

Defendant answers the complaint as follows:

☐ **I admit** the statements in paragraph numbers \_\_\_\_\_ except for the following statements:

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☐ **I deny** the statements in paragraph numbers \_\_\_\_\_ except for the following statements:

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- ☐ **I don't know** about the truth and so deny the statements in paragraph number/s
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**2. Affirmative Defenses**

Defendant/s other defenses are:

**Amount**

- ☐ I do not owe this debt.
- ☐ I have paid all or part of the debt.
- ☐ I disagree with the amount of the debt. The amount is incorrect.
- ☐ This debt was discharged in bankruptcy.
- ☐ The amount demanded is excessive compared with the original debt. (Unjust enrichment)

**Medical**

- ☐ I am eligible for Charity Care for my hospital debt.
- ☐ I have health insurance. The claim is for an unpaid medical bill from an out-of-network provider. That provider should have charged me only as much as a preferred provider would have. (Violation of No Surprises Act)
- ☐ I was on Washington Apple Health (Medicaid) at the time I received some or all of the medical services at issue in this lawsuit and the medical provider improperly billed me. See WAC 182-502-0160.

**Plaintiff**

- ☐ Plaintiff is a "collection agency" or "debt buyer" who is prohibited from recovering damages in excess of the principal balance of the alleged obligation for failure to comply with the requirements of RCW 19.16.110., .250, and/or .260.
- ☐ Plaintiff lacks standing and does not have authority to bring this lawsuit.

**Service**

- ☐ I did not receive a copy of the Summons and Complaint.
- ☐ I received the Summons and Complaint, but service was not correct as required by law.

**Timing**

- ☐ The time has passed to sue on this debt. (Statute of Limitations)
- ☐ Plaintiff has excessively delayed in bringing this lawsuit to my disadvantage. (Laches)

**Not my debt**

- ☐ I am a victim of identity theft or mistaken identity. I am not responsible for this debt.

☐ Someone else should have paid this debt. (Fault of nonparty)

**Unfair or unreasonable**

☐ The contract is unfair. (Unconscionability)

☐ Violation of the duty of good faith and fair dealing.

☐ The collateral (property) was not sold at a commercially reasonable price.

☐ I did not receive the product or services I was billed for or the product or services were defective or unacceptable. (Failure of consideration)

**Other**

☐ I am in the military.

☐ I was under the age of 18 when the contract was created, so I lacked capacity to enter into a contract.

☐ The Complaint fails to state a claim upon which relief can be granted.

☐ Other: \_\_\_\_\_

**3. Notice of exempt public benefit and/or retirement income**

I have the following public benefit and/or retirement income which is exempt from garnishment (*check all that apply*):

☐ Public assistance grants & payments (TANF, ABD, Food Stamps).

☐ Supplemental Security Income (SSI).

☐ Social Security (Disability, Survivors, Retirement).

☐ Retirement income

**4. Request**

Defendant/s request that the court dismiss this case and enter a judgment against the plaintiff/s for any costs or attorney fees.

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at (*city and state*): \_\_\_\_\_ Date: \_\_\_\_\_



\_\_\_\_\_  
*Defendant signs here* *Print name*

I agree to accept legal papers for this case at (*check all that apply*):

☐ the following address (*this does **not** have to be your home address*):

\_\_\_\_\_  
*Street or mailing address* *city* *state* *zip*

☐ Email: \_\_\_\_\_

Superior Court of Washington, County of \_\_\_\_\_

Petitioner / Plaintiff:

\_\_\_\_\_

And Respondent / Defendant:

\_\_\_\_\_

No. \_\_\_\_\_

Notice of Appearance

(No mandatory form)

## Notice of Appearance

To: Petitioner / Plaintiff or their Attorney (*name*): \_\_\_\_\_

And to the Superior Court Clerk

1. **Appearance.** My name is: \_\_\_\_\_. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.

I agree to accept legal papers for this case at the following address/es:

\_\_\_\_\_  
*Street or mailing address* *city* *state* *zip*

☐ Email (*optional*): \_\_\_\_\_

2. **Proof of service.** I declare: on (*date*): \_\_\_\_\_, I served or will serve a copy of this Notice of Appearance to the Petitioner / Plaintiff or their Attorney named above by (*check all that apply*):

☐ **hand delivery** ☐ **first class mail** ☐ **certified mail** to (*address*):

\_\_\_\_\_  
*Street or mailing address* *city* *state* *zip*

☐ **fax to:** \_\_\_\_\_ ☐ **email to:** \_\_\_\_\_  
(*only if allowed by agreement, order, or your county's Local Court Rule*)

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at (*city and state*): \_\_\_\_\_ Date: \_\_\_\_\_

▶ \_\_\_\_\_

*Respondent / Defendant signs here*

\_\_\_\_\_  
*Print name*