

How Do I Answer a Lawsuit for Debt Collection?

Introduction

Use this if you have been served with a lawsuit in a debt collection case and want to keep a court from entering a default judgment against you.

❖ This is not a substitute for a lawyer's representation. Try to talk to or hire a lawyer before answering a lawsuit.

You can also use our online interview, [Answer a Lawsuit for Debt Collection](#). It creates the necessary court forms. Use it instead of this packet if you do not want to handwrite your forms. The interview is at [WashingtonLawHelp.org](#).

Should I answer the Complaint?

Yes, if you want to defend the lawsuit. If you do not file an Answer, the court will enter a Default Judgment against you.

Do I have to answer the Complaint?

No, but if you do not file an Answer, the court will enter a Default Judgment against you.

What if I do not answer the Complaint?

The plaintiff will win automatically. Plaintiff will get a judgment for everything they asked for in the complaint.

I offered to make small payments on my bill OR told Plaintiff I would make full payments as soon as possible. Can Plaintiff sue me anyway?

Yes. They will file a lawsuit. If they win, the court will add the costs of that suit to what you owe. The creditor does not have to accept anything less than what you owe.

I cannot afford to pay the debt. Can they sue me anyway?

Yes. That is not a defense.

What is a Declaration of Exempt Income and Assets?

A declaration is a sworn statement. The Declaration of Exempt Income and Assets lets your creditors know you have income and/or assets the law says they may not take from you. If you think your income is protected or exempt from garnishment, you must still respond, but you should also consult a lawyer.

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- ❖ If you know for sure your income and/or assets are protected or exempt from garnishment, you should also file a Declaration of Exempt Income and Assets and serve the Plaintiff's lawyer. See [When Should I File a Declaration of Exempt Income and Assets](#)
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What are a Summons and Complaint?

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**.

The person starting the lawsuit is the Plaintiff.

If the lawsuit is against you, you are the Defendant. **If the lawsuit names you as a Defendant, you must respond**, even if you think the debt is not yours!

The lawsuit might be against you and JOHN DOE or JANE DOE. Plaintiff is trying to sue both you and your spouse. Plaintiff believes you are married but does not know your spouse's name. If you are married and the complaint names your spouse (their actual name or JOHN or JANE DOE), you must both respond to the Complaint.

Plaintiff must have a copy of the Complaint delivered to you so you will know about the lawsuit.

In the Complaint, Plaintiff makes statements about you and about debts that Plaintiff believes you owe. **The Plaintiff saying things about you in the complaint does not make them true.** An Answer is your chance to tell the court which of Plaintiff's statements are true and should be admitted, which are not true and should be denied, and which statements you do not know or understand, or cannot remember if it is true (should be denied for lack of information).

You will also get a **Summons**. It says:

- You have a right to disagree with the Complaint in writing.
- How long you have 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.

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- ❖ A Summons is NOT a notice of a court hearing date. It gives instructions about how to respond to the complaint.
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If you do not 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 Plaintiff what Plaintiff asked for. Plaintiff wins by default if you have not answered. If the court enters a Default Judgment against you, you will not get notice of the Judgment if you have not at least filed a Notice of Appearance.

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

You must file a **written response** within the time limit in your Summons. It is usually twenty 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

A **Notice of Appearance** states you are appearing in the lawsuit. Delivering a Notice of Appearance will stop the court from entering a default judgment against you without a hearing. **A Notice of Appearance does not explain your position in the lawsuit. Your Answer does this.**

Use the Notice of Appearance in this packet. Try to do both the Notice of Appearance and Answer at the same time. You must at **least** do the Notice of Appearance. If you have it delivered and filed before Plaintiff goes to court, Plaintiff must notify you of all future court hearings.

Use the Answer in this packet. The directions for filling it out are below.

What is an Answer?

It is your written response to the statements in the Complaint. You are the defendant.

In your Answer,

- State if you **admit, deny, or lack knowledge** of each statement made by Plaintiff. Do not admit any statement unless you know it is 100% true. **Do not guess!** If you do not know if the account number listed is your credit card number or if the amount Plaintiff says you owe is correct, **deny** the statement. If you do not understand what Plaintiff is saying, say you **lack knowledge**.

- Type or neatly print your answer. Your Answer must be clear and readable.

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 does not mean you are trying to avoid your debts.

You may disagree with the amount Plaintiff asked for in the Complaint. You may want to preserve your right to get notice of future hearings. If you do not 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 Plaintiff more court costs and attorney fees.

You will need one original and two copies of your Answer. You file the original with the court. One copy goes to Plaintiff. You keep a copy. The section below, "What to do with the Answer," explains.

How do I fill out the Answer and Affirmative Defenses?

A. The Caption

Look at your Summons and Complaint. They have a heading that gives info about the case. This heading is the "caption." All court papers, including the Summons, the Complaint, and your Answer, are "pleadings." All pleadings use a caption.

The caption looks like this:

_____ COURT, STATE OF WASHINGTON _____ COUNTY	
(YOUR OPPONENT'S NAME), <div style="text-align: center; padding: 5px 0;">Plaintiff,</div> <div style="text-align: center; padding: 5px 0;">vs.</div> (YOUR NAME), <div style="text-align: center; padding: 5px 0;">Defendant.</div>	No. _____ ANSWER AND AFFIRMATIVE DEFENSES

- The top line gives the court, the state, and county names. **Examples:** "District Court, State of Washington, Pierce County;" "In the Superior Court of the State of Washington in and for the County of Pierce."
- The left side lists Plaintiff and Defendant's names. It might list your name and then say JANE DOE or JOHN DOE. If you are married, the creditor is suing both you and your spouse. The creditor puts JANE DOE or JOHN DOE if the creditor does not know if you are married or does not have your spouse's actual name.
- When both you and your spouse are sued (your spouse's actual name is listed or the Complaint says JOHN DOE or JANE DOE), you both must respond to the lawsuit. You both must sign and date the Notice of Appearance and Answer.
- The right side lists the **number** the court clerk assigned this case and the pleading's **title**.

Starting July 28, 2019, the Summons and Complaint must have a case number. If you are served before then with an action that does not have a case number, talk to a lawyer right away. You are still bound by the time limit in the Summons but you might not have to file your Answer with the court yet.

When you fill out your Answer, fill out the caption at the top of the page. Copy the needed info from your Summons and Complaint. Copy Plaintiff's and Defendant's names **just as they are on the Summons and Complaint**, even if they spelled your name wrong or called you or your spouse "John Doe."

B. Admissions/Denials/Lack Knowledge

Use the middle of the page to give your answers to the statements in the Complaint. Usually, the Complaint's paragraphs are numbered. You should list the numbers and say one of three things about each paragraph of the complaint:

1. You **admit** it is a true statement. (**Examples:** you live in Pierce County. You are not a member of the Armed Forces.) Admit the statement only if you agree with **every part** of it. Otherwise, deny it.
2. You **deny** it is a true statement. (**Example:** You owe a specific amount of money to the person named.) **Do not assume you owe a certain amount! Do not guess!**
3. You **lack knowledge**. You do not know if the statement is true. (**Example 1:** The collection agency suing you claims it is licensed and bonded. You might assume they are, but you have no evidence. You have never seen their license.) (**Example 2:** Plaintiff uses words like venue, jurisdiction, or assignment. You do not know what these mean.) **Do not guess!**

Read the Complaint carefully. You must answer **all** the Complaint's statements by putting a number next to Admit, Deny, or Lacks Knowledge.

C. Defenses

You may have technical or legal defenses to the Complaint. The Answer in this packet lists possible defenses. Some examples:

- **The statute of limitations has run.** Actions to collect debts have a time limit. We call it the "statute of limitations." It usually starts once the creditor has a right to sue you (**example:** once you miss a payment). Once the time limit has passed, the creditor can no longer collect from you.

- **Insufficient service of process.** You did not get the Summons and Complaint the way the law requires. The Summons and Complaint should be handed to you or to someone of suitable age living with you.
- **Eligible for Charity Care.** The claim is for a hospital bill. The bill should have been paid for by DSHS or should have been covered by Charity Care.

For more on defenses you may have, call CLEAR if you have a low income (1-888-201-1014, Monday– Friday 9:15 a.m. – 12:15 p.m).

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- ❖ You can have more than one Affirmative Defense. You should check all boxes on the Answer form that apply. You could lose an "Affirmative Defense" if you file an Answer without stating it.
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D. The Signature and Your Address

On the last page, put the date you sign your name. Below that, sign your name with your legal signature (the one you use for checks). Just below your signature, print or type your name. It must be easily readable. Put your address below that. You have finished your Answer.

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- ❖ **Remember:** If the creditor sues both you and your spouse (the Complaint lists your spouse's name as Defendant or it says JOHN DOE or JANE DOE), you both must sign your names and put the date you sign your names.
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I have filled out the documents (Notice of Appearance and/or Answer). Now what?

1. Sign and date each form.
2. Make two copies of each form – one for Plaintiff (or Plaintiff's attorney, if there is one) and one for yourself.
3. Hand deliver or mail (**do not fax**) one copy of each form to Plaintiff or Plaintiff's attorney, if there is one. You can do this yourself. You do not need someone else to do it.

If you deliver the forms in person, Plaintiff's attorney must get them by the deadline (20 days from the date the Summons and Complaint were handed to you or a member of your household). Ask the attorney or office staff to date-stamp your copy.

If you mail the documents, you must put them in the mail at least three (3) days before the deadline. Ask the Post Office for tracking and delivery confirmation.

4. Fill out the Certificate of Service:

Fill out its caption. Put the date you are mailing or hand-delivering the documents to Plaintiff or Plaintiff's attorney.

List which documents you are mailing or hand-delivering. (**Example:** Notice of Appearance, Answer)

List Plaintiff's attorney's name and address.

At the bottom, put the date and place (City and State) where you filled out the Certificate of Service. Sign the Certificate. Make one copy for your records.

5. Take all the original documents (the ones you signed) to the Clerk of the Court and file them. Have your copies date-stamped to prove they were filed.

6. Keep your copies.

❖ **You must file your Answer within the time limit listed in your Summons** (usually twenty days). Once you have timely filed your Answer and served Plaintiff's lawyer, you should get notice of any hearings. **If you have already missed your time limit, file an answer anyway.** A late Answer may be better than none at all. If you are too late, and the court has entered a judgment against you, talk to a lawyer right away.

This publication provides general information concerning your rights and responsibilities.
It is not intended as a substitute for specific legal advice.
This information is current as of July 2019.

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_____ COURT OF WASHINGTON
COUNTY OF _____

No. _____

**ANSWER AND AFFIRMATIVE
DEFENSES**

Plaintiff(s),

vs.

Defendant(s).

I. ANSWER

Defendant(s) answers the complaint as follows:

1. I admit the statements in paragraph numbers _____ except for
the following statements: _____

- 1 2. I deny the statements in paragraph numbers _____ except for the
 following statements: _____
 2 _____
 3 _____
 4 _____
- 5 3. I lack knowledge about the truth and so deny the statements in paragraph number(s)
 _____.

6 **II. AFFIRMATIVE DEFENSES**

7 Defendant(s) other defenses are:

- 8 General Denial: I deny the allegations in the Complaint
- 9 Plaintiff lacks standing and does not have authority to bring this lawsuit.
- 10 I am eligible for Charity Care for my hospital debt.
- 11 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.
- 12 I did not receive a copy of the Summons and Complaint.
- 13 I received the Summons and Complaint, but service was not correct as required by law.
- 14 I do not owe this debt.
- 15 I am a victim of identity theft or mistaken identity. I am not responsible for this debt.
- 16 I have paid all or part of the debt.
- 17 I disagree with the amount of the debt. The amount is incorrect.
- 18 Statute of Limitations (the time has passed to sue on this debt).
- 19 This debt was discharged in bankruptcy.
- The collateral (property) was not sold at a commercially reasonable price.
- Unjust enrichment (the amount demanded is excessive compared with the original debt).
- Violation of the duty of good faith and fair dealing.
- Unconscionability (the contract is unfair).
- Laches (Plaintiff has excessively delayed in bringing this lawsuit to my disadvantage).
- Defendant is in the military.
- The Complaint fails to state a claim upon which relief can be granted.

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- I lacked capacity to enter into a contract because I was under the age of 18 when the contract was created.
- Someone else should have paid this debt (fault of nonparty).
- 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: _____

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

DATED this _____ day of _____, 20____.

(signature)
Name: _____
Address: _____
Telephone: _____

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_____ COURT OF WASHINGTON
COUNTY OF _____

_____,
Plaintiff(s),

vs.

_____,
Defendant(s).

No. _____
NOTICE OF APPEARANCE

TO: _____, Attorney for Plaintiff
AND TO: Clerk of the Court

The undersigned enters an appearance in this action, and demands notice of all further proceedings. The Clerk of the Court and the opposing party will be informed of any change in address. Any notices may be sent to: _____

[You may list an address that is not your residential address where you agree to accept legal documents.]

Service Address:

Dated: _____
Signature of Defendant

Print or Type Name

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_____ COURT OF WASHINGTON
COUNTY OF _____

Plaintiff(s),

vs.

Defendant(s).

No. _____

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that, on the date stated below, I did the following:

On the _____ day of _____, 20____, I [*strike out what doesn't apply*] mailed with delivery confirmation / hand delivered a true copy of the _____
_____ [*name of paper(s) served*] in the
above-entitled matter to _____ [*Name of Plaintiff or Plaintiff's Attorney*] at the following address: _____

Dated this ____ day of _____, 20____, in _____, _____ [*city and state*].

(Signature)