

Instructions for Answer – Debt Collection

*****Refer to [Answering a Debt Collection Summons and Complaint Checklist](#)*****

If you have any doubts about whether it is proper for the Plaintiff to sue you in North Dakota, consult a lawyer **Immediately**, and **Before** you serve or file any written response, Answer, Counterclaim or any other court paper.

You must serve a copy of your answer on each Plaintiff **within 21 days after the date you were served** the Summons and Complaint.

See the “[Answering a Summons and Complaint](#)” section of the [ND Legal Self Help Center webpage](#) has more information and resources.

ND Legal Self Help Center Staff and Court employees can't help you fill out forms, or create documents for you. If you're unsure how to proceed, [consult a lawyer](#).

ND Legal Self Help Forms aren't official forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. Use at your own risk.

Don't include this instruction sheet when you serve or file the completed form.

Unauthorized Practice of Law - Caution!

This form may be used by a Defendant who is a **human being**, also known as a **natural person**. A human being can perform the functions of a lawyer for themselves at their own risk. This is called legal self-representation.

This form **can't be used** on behalf of a Defendant who is an **artificial person**, also known as an **entity created by law**. An artificial person includes, but isn't limited to, businesses, corporations, and limited liability companies. In general, an artificial person **can't** be represented in a North Dakota state district court by a non-lawyer. This is called unauthorized practice of law (UPL).

If the Defendant is an artificial person, consult a lawyer licensed to practice in North Dakota. Contact the State Bar Association of North Dakota Lawyer Referral Service at (866) 450-9579. An online directory of all lawyers licensed to practice in North Dakota is available at ndcourts.gov/lawyers.

Forms Must be Filled out Completely!! Don't leave any of the paragraphs within a form unanswered.

If a section of the form doesn't apply to you, type or write "N/A" or "Not Applicable."

If a form isn't completely filled out, it could result in the clerk not accepting your form for filing, or the court may send the form back to you to complete.

follow and Carefully Read All Instructions! There are boxes (☐) before each step. Check each box as you finish the step. Don't go on to the next step **until** the previous step is completed.

Why Isn't the Case Number on the Summons and Complaint (or Petition)?

When you're served the Summons and Complaint (or Petition), the documents won't have a case number. **In North Dakota, a civil case starts with service of a Summons and a copy of the Complaint (or Petition) on the Defendant. A Summons and Complaint (or Petition) aren't required to be filed to start a civil case.** You and the clerk of court won't be able to find a case number in North Dakota State District Court case files.

- **The Plaintiff can't file the Summons and Complaint** (or Petition) until the Plaintiff gets proof of service that they served copies on the Defendant. The Summons and Complaint (or Petition) and proof of service are then filed together and a case number is assigned.

If you want to take part in the case, you must serve your written Answer to the Summons and Complaint (or Petition) within 21 days after you were served. You serve your written Answer to the Summons and Complaint (or Petition) without a case number.

- If you don't serve your written Answer within **21 calendar days after the date you were served**, you may be found in default. This means you won't have a chance to take part in the case or be heard on the matter. The court may give the Plaintiff what they requested in the Complaint (or Petition) without your input.

Don't Wait to Serve Your Answer! If you wait until the Summons and Complaint (or Petition) are filed before serving your written Answer, you may miss your **21 day deadline**. If you miss your deadline, the Plaintiff is allowed to ask the court to find you in default.

Answer:

An Answer is a written response by a Defendant to a Complaint. The Answer must also state defenses to each of the claims in short, plain statements.

- ☐ Complete the top (caption) of the Answer exactly as it appears on the Plaintiff's Summons and Complaint.
- ☐ Fill in your name on the first line.
- ☐ **Paragraph 1** states that you, the Defendant, disagree with every paragraph of the Plaintiff's complaint, except as specifically stated in Paragraphs 2 through 6 of the Answer.
- ☐ If you agree completely with a paragraph of the Plaintiff's Complaint, type or print the paragraph number in **Paragraph 2** of the Answer.
- ☐ If you both agree and disagree with a paragraph of the Plaintiff's Complaint, use **Paragraphs 3, 4, and 5** of the Answer to respond. For each paragraph of the Plaintiff's Complaint that falls into this category, explain what part of the paragraph you admit (agree with) and what part you deny (disagree with).

If Paragraph 3, 4, or 5 don't apply to you, write "Does Not Apply" on the first full line.

- ☐ If you don't have enough information to agree or disagree with a paragraph of the Plaintiff's Complaint, type or print the paragraph number in **Paragraph 6** of the Answer.

Affirmative Defenses:

An affirmative defense is a legal reason the Plaintiff should lose, even if the Plaintiff's claims are true. For example, expiration of the time allowed by law to bring a civil action, or statute of limitations, is an affirmative defense.

You, the Defendant, must state your affirmative defenses in your Answer. You may not have any affirmative defenses.

Important! Inability to pay the debt **isn't** an affirmative defense.

You must independently determine if any of the affirmative defenses listed apply to your case. ND Legal Self Help Center staff and Court employees can't advise you.

Note: You will need to prove all affirmative defenses you check mark at trial.

Paragraph 7: Checkmark (✓) one of the two statements. If you choose the second statement, checkmark (✓) all affirmative defenses that apply to your case.

☐ **The North Dakota District Court does not have subject matter jurisdiction.**

- Subject matter jurisdiction is the North Dakota laws and/or rules that say the court can hear and make decisions about the case. (See the [laws and/or rules](#) related to the subject matter and/or [North Dakota Century Code Chapter 28-04](#).)

☐ **I did not receive a copy of the Summons and Complaint.**

- Service of the Summons and Complaint on a Defendant starts a debt collection case.

☐ **I received the Summons and Complaint, but it was not properly served.**

- To start a debt collection civil action, the Summons and Complaint on a Defendant must be served in specific ways. To determine if you were properly served the Summons and Complaint, go to [Service to Start a District Court Civil Action](#).

☐ **I paid this debt in full.**

- If this applies, include proof of payment in full when you serve and file your Answer.

☐ **I paid an amount that the Plaintiff accepted as payment in full.**

- If this applies, include proof of payment when you serve and file your Answer.

☐ **I have a pending bankruptcy case.**

- If you have 1) filed for bankruptcy, 2) the bankruptcy case is not yet finished, and 3) this debt was included, fill in the filing date and case number of your bankruptcy case.

☐ **The debt was discharged in bankruptcy.**

- If you have filed for bankruptcy and this debt was discharged as part of your bankruptcy case, fill in the filing date and case number of your bankruptcy case.

☐ **A court has already decided this claim in my favor.**

- If this debt was already part of a different case, and the court reached a decision, get a certified or authenticated copy of the order or judgment and include when you serve and file your Answer.

☐ **The statute of limitation for collection this debt is ____ years. . .**

- Statute of limitations is the amount of time by law that a Plaintiff may bring a claim in a civil action. If the time limit has passed, the Plaintiff can't bring the claim.
- To determine if the statute of limitations has passed for the Plaintiff to bring a debt collection civil action against you, start your legal research with [Chapter 28-01](#) of the North Dakota Century Code. If the debt collection civil action doesn't relate to real estate, start your research with [Section 28-01-16](#).

☐ **I lacked capacity to enter into a contract because:**

☐ **I was under the age of 18 when the alleged contract was created.**

- If you were under age 18 when the alleged contract was created, file a [Confidential Information Form](#) with your Answer. **Don't** serve the Confidential Information Form with your Answer.

☐ **I was not mentally competent when the alleged contract was made.**

- If you had a guardian or conservator appointed for you by a court when the alleged contract was made, fill in the case number and include a copy of the letters of guardianship/conservatorship when you serve and file your answer.

☐ **I am a victim of identity theft or mistaken identity.**

- If this applies, be prepared to prove this claim at trial.

☐ **I am a member of the military on active duty.**

- Active duty members of the military have protections from debt collection while on active duty.

☐ **The Plaintiff is not the original owner of the debt.**

- This paragraph may apply if:
 - The Plaintiff is a debt collector;
 - You asked for proof, in writing, that you owe the debt; and
 - You did not receive adequate documentation that the Plaintiff now owns the debt.
- A "debt collector" is someone who regularly collects debts owed to others. This includes collection agencies, lawyers who collect debts on a regular basis, and companies that buy delinquent debts and try to collect them. **If the Plaintiff is the original creditor, this option doesn't apply.**

☐ **Other:**

- The affirmative defenses listed in Paragraph 7 **aren't all of the possible affirmative defenses you may have**. If you have an affirmative defense that isn't listed in Paragraph 7, use this option to write or type the affirmative defense(s).

Counterclaim:

To make counterclaims, you need to create your own Answer and Counterclaim document. This form doesn't include space for you to make counterclaims.

A counterclaim is a written demand or request to the court for judgment granting the relief the Defendant is seeking. A counterclaim allows you, the Defendant, to bring claims against the Plaintiff.

The "[Answering a Summons and Complaint](#)" section of the [ND Legal Self Help Center webpage](#) has more counterclaim information and resources.

Answer Requests:

You, the Defendant, must state what you want the court to do, based on your Answer.

Sign and Date the Answer:

- ☐ You, the Defendant, must sign and date the Answer.

Service:

- ☐ You must serve a copy of your Answer (or Answer and Counterclaim) on the Plaintiff within **twenty-one (21) days after the date of service** of the Summons and Complaint. If you don't, the Plaintiff may ask the court for a default judgment against you.

Serve the Plaintiff who signed the Summons and Complaint. If a lawyer signed the Summons and Complaint, the Plaintiff is represented by the lawyer. Serve the lawyer with copies of your Answer and any documents you plan to file with your Answer.

- The person serving by mail must be at least 18 years old.
- Put the copy in an envelope.
- Address the envelope to the person who signed the Summons and Complaint.
- List your address as the return address on the envelope.

- Put the correct first class postage on the envelope.
 - Postage must be prepaid.
 - **It's very important to put the correct postage on the envelope.** If you don't, the envelope may be returned to you causing you to miss the service deadline.
- Put the envelope in the U.S. mail.
- Service by mail is complete upon mailing.

☐ **The person who mailed the envelope completes the following form:**

- Declaration of Service by Mail.

The person who mailed the envelope **must** complete the Declaration of Service by Mail form. (If the envelope is mailed at a United States Post Office, the United States Post Office employee **doesn't** complete Declaration of Service by Mail form.)

- Complete the top (caption) exactly as you completed the caption on your Answer.
- **Paragraph 1:** Fill in the name of the person who mailed the envelope.
- **Paragraph 2:** List any additional documents you served with your Answer.
- **Paragraph 3:** Review.
- **Paragraph 4:** Fill in the date the documents were mailed.
- **Paragraph 5:** List the name of the person served and the mailing address.
- **Paragraph 6:** Review carefully.
- **Date and Signature:** The person who mailed the documents fills out when and where they signed the Declaration, and fills out the lines below their signature.

☐ **You, the Defendant, make a copy of the Declaration.**

For information about service and proof of service in a civil action, go to the [Service](#) link on the ND Legal Self Help Center webpage. Review the information and instructions in the "Service After a Civil Action Has Been Started" section.

Don't include these instruction sheets when you serve or file the completed form.

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided by the Center isn't intended for legal advice but only a general guide to the civil court process. The Center isn't responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state.

State of North Dakota

District Court

County of _____

_____ Judicial District

_____,
Plaintiff

vs

_____.
Defendant

)
)
)
)
)
)
)

Case No. _____

Answer

_____, the Defendant in this
case, submits this Answer to the allegations in the Plaintiff's Complaint:

1. I deny each and every allegation in the Plaintiff's Complaint unless specifically admitted
to below.

2. I admit to the allegations in the following paragraphs in the Plaintiff's Complaint:

_____.

3. I admit part and deny part of the allegations in the following paragraph of the Plaintiff's
Complaint: Paragraph No. ____ (Explain below; if this paragraph doesn't apply, write "Does Not Apply")

4. I admit part and deny part of the allegations in the following paragraph of the Plaintiff's Complaint: Paragraph No. ____ (Explain below; if this paragraph doesn't apply, write "Does Not Apply")

5. I admit part and deny part of the allegations in the following paragraph of the Plaintiff's Complaint: Paragraph No. ____ (Explain below; if this paragraph doesn't apply, write "Does Not Apply")

6. I do not have sufficient knowledge to either admit or deny the allegations in the following paragraphs in the Plaintiff's Complaint:

Affirmative Defenses Pursuant to Rule 8 of the North Dakota Rules of Civil Procedure

7. (Choose one) ☐ I **do not** have any affirmative defenses./ ☐ I have the following affirmative defenses (Check all that apply. You will need to prove all affirmative defenses you check):

☐ The North Dakota District Court does not have subject matter jurisdiction.

☐ I did not receive a copy of the Summons and Complaint.

☐ I received the Summons and Complaint, but it was not properly served because:

_____.

☐ I paid this debt in full. Proof of payment is attached.

☐ I paid an amount that the Plaintiff accepted as payment in full. Proof of payment is attached.

☐ I have a pending bankruptcy case. The bankruptcy case was filed _____ (date).

The bankruptcy case number is _____.

☐ This debt was discharged in bankruptcy. The bankruptcy case was filed _____ (date).

The bankruptcy case number is _____.

☐ A court has already decided this claim in my favor. The certified or authenticated court order/judgment is attached.

☐ The statute of limitations for collecting this debt is ____ years. The Plaintiff failed to sue within ____ years of _____ (date), the last activity on the alleged account.

☐ I lacked capacity to enter into a contract because:

☐ I was under the age of 18 when the alleged contract was created. My year of birth is _____. A confidential information form with my full birth date is filed with the court.

☐ I was not mentally competent when the alleged contract was made. The probate case number is _____. My letters of guardianship/ conservatorship are attached.

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

☐ I am a member of the military on active duty.

☐ The Plaintiff is not the original owner of this debt. I have not received adequate documentation to show the Plaintiff rightfully owns this debt.

☐ Other: _____

Therefore, I request the following relief:

8. Dismiss this case and enter a judgment against the Plaintiff for any costs or attorney fees.

9. I also ask for any other relief the Court may determine to be just and equitable.

Dated this _____.

_____, Defendant
(Signature of Defendant)

(Printed Name of Defendant)

(Address)

(City, State, Zip Code)

(Phone Number)

(Email Address)

State of North Dakota

District Court

County of _____

_____ Judicial District

_____,)
Plaintiff)
)
vs)
)
_____.)
Defendant)

Case No. _____

Declaration of Service by Mail

(A separate Declaration is required for each person served.)

The person serving court documents by mail states:

1. My name is _____ (name of person who mailed document(s) in Paragraph 2) and I am at least 18 years of age.

2. **List of Court Documents Served** (if you include any additional documents with your answer to the debt collections summons and complaint, write the title of each document on a separate line. Checkmark (✓) next to each document listed. You must serve a copy of each):

☒ Answer

☐ _____

☐ _____

3. **Service by Mail:**

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court document(s) listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 5.

4. **Date of Service by Mail:**

Date Court Documents Were Served by Mail: _____

5. Person Served by Mail:

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ County, _____ (state), _____ (country).

Signature of Person Who Mailed Documents

Printed Name of Person Who Mailed Documents

Address

City, State, Zip Code

Telephone Number

Email Address