

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA

AT _____
(City or town where the court is located)

| | | |
|------------|---|----------------|
| _____ |) | |
| Plaintiff, |) | |
| v. |) | |
| _____ |) | Case No. _____ |
| Defendant. |) | |
| _____ |) | |

**ANSWER & COUNTERCLAIM
TO COMPLAINT TO COLLECT A DEBT**

I, _____, respond to Plaintiff's *Complaint*, and state the following:

I was sued in Small Claims Court and I want to move the case to District Court. This is my written request to use the formal rules. (Only check this if you were sued in Small Claims Court and want to use the formal rules for civil procedure and evidence.)

I request the court change the place of trial to _____, Alaska because:

(Only check this if you want to change the place of trial. You must also file a motion to change the trial location for the court to consider this request. You can find more information about filing a motion at: <http://courts.alaska.gov/shc/debt/motions.htm>.)

A. ANSWER

I agree with all of the statements in the *Complaint*.

I agree with all of the statements in the following paragraph number(s) of the *Complaint*:

 I am not sure if I agree or disagree with the statements in the following paragraph number(s) of the *Complaint*: _____

I disagree with all or part of the statements in the following paragraph number(s) of the *Complaint*. (If you disagree with only part of a statement in a paragraph, explain which part you disagree with.)

More pages are attached.

B. DEFENSES

[Defenses are reasons you should win the case instead of the Plaintiff. You need to state all defenses that you think apply to your case. If you can prove the defense at trial, you may be able to prove you do not owe the Plaintiff anything or that you owe less than claimed in the Complaint.]

I have no defenses. (Go to Section C.)

I have the defense(s) listed below:

(Check below all defenses that you believe apply and attach copies of any documents you have that support the defenses you raise)

1. I did not enter an agreement or contract for the debt described in the *Complaint* because:
 - The Plaintiff made a mistake about the name of the person who made the contract.
 - Someone stole my identification and made this debt.

2. I disagree with the amount the Plaintiff says that I owe because:
 - I owed the debt, but the creditor (person who is owed money) told me I did not owe anything else under our agreement.
 - I owed the debt, but the creditor (person who is owed money) and I worked out a new agreement to settle the debt and I followed it.
 - I owed the debt, but have paid all of it.
 - I owed the debt, but have paid part of it. I paid \$_____ and owe \$_____.
 - I have a contract or agreement with the Plaintiff, but the Plaintiff's math is wrong about how much I owe. I owe _____.
 - I have a contract or agreement with the Plaintiff, but someone else made the charge/debt without my permission. (For example, someone else made charges on your credit card.)

3. I did not enter any agreement or contract with the Plaintiff, and I do not believe the Plaintiff can show he or she owns the debt. (This might happen if you had a contract or agreement with someone else, like a credit card company, and the Plaintiff says he or she bought the debt and can sue you for the money you owe the other person or company.)

4. This debt is too old. More than 3 years have passed since either the defendant made a payment or was supposed to make the first payment. This is too long under Alaska's statute of limitations law for contracts. (If you are being sued for a debt that is not based on a contract between you and the other person, there may be a different time limit.) (Alaska Statute 09.10.053)

5. I or someone else was already sued for this debt.
Date case filed: _____. Case number #: _____.

6. This debt was discharged already is being discharged in a bankruptcy case.
Date case filed: _____. Bankruptcy case #: _____.

7. I used collateral to get this loan, and the Plaintiff took my collateral but did not follow the rules (Alaska Statute 45.29.601-.628) for selling it because:
 I was not given appropriate notice about the sale of the collateral.
 The Plaintiff did not sell my collateral in a fair way.

8. The debt relates to a payday loan, and the Plaintiff did not:
 Offer me a payment plan to repay this debt with only a \$30 fee.
 Send me a certified letter telling me it was going to start this case and that I had at least 15 days to respond before suing. (Alaska Statute 06.50.550)

9. I do not owe the Plaintiff any money because the Plaintiff was supposed to do something before I had to pay, and it did not happen. (This might happen if Plaintiff was supposed to do a service for you before being paid, like fix something in your house, but did not do it.) The Plaintiff was supposed to do the following:

More pages are attached.

10. I bounced a check to the Plaintiff, but the Plaintiff cannot sue me because the Plaintiff did not send me written notice at least 15 days before filing this case stating I could avoid court by paying the Plaintiff the amount of the check plus \$30. (Alaska Statute 09.68.115) (This rule does NOT apply to a payday loan.)

11. I am a member of the military on active duty or have been released from active duty within the last 90 days. I am requesting a 90 day stop (stay) to the case. I have attached the necessary written information. (*Attach letters from you and your commanding officer explaining why your service makes you unable to go to court and when you will be able to go. You may request another stay in 90 days if you are still unavailable.*)

12. Other: (*State any other reasons why the court should not grant the Plaintiff's request.*)

More pages are attached.

C. COUNTERCLAIM

[List any legal claims you have against the Plaintiff. If you have a claim against the Plaintiff from the same facts that the Plaintiff is talking about in the Complaint and you do not list it here, you might lose your right to sue the Plaintiff for it later. Attach copies of documents that help prove your case.]

I have no counterclaim. *(Go to Section D.)*

I have the counterclaim(s) listed below:

(Check below all counterclaims that you believe apply, and attach copies of any documents you have that support the counterclaims you raise.)

1. **Breach of Contract:** The Plaintiff and I had an agreement or contract, and the Plaintiff owes me something under the agreement. *(Explain the agreement, how Plaintiff broke it, and what Plaintiff owes you.)*

More pages are attached.

2. **Consumer Protection Violation:** I request that the court order the Plaintiff to pay me because the Plaintiff violated the *Alaska Unfair Trade Practices and Consumer Protection Act* (Alaska Statute 45.50.471-.561) or the *Federal Fair Debt Collection Practices Act* (15 U.S.C. §§ 1692-1692p) and caused me damages. *(Check a box under "a." and "b." below).*

a. Violation: *(Check the box that describes what the Plaintiff did that caused you harm. Some claims only apply if the Plaintiff is a debt collector, who collects debts for other people or companies as their main business.)*

The Plaintiff is a debt collector who contacted me about a debt and then did not send the following information in writing within 5 days:

Amount I owed.

Who I owed.

That I had 30 days to disagree in writing or the Plaintiff would believe I owed the debt.

That I had 30 days to respond in writing and ask for written proof that I owed the money.

That I had 30 days to respond in writing and ask for the name and address of the person or company that I owed the debt to in the first place (if the letter came from someone who bought the debt).

The Plaintiff is a debt collector who harassed or threatened me in the following way: *(Describe what the Plaintiff did; see examples in the SHC FAQs,)*

More pages are attached.

The Plaintiff says it bought my debt but does not have admissible evidence to prove it owns my debt. Filing a debt collection lawsuit without admissible evidence is an unfair or deceptive practice.

The Plaintiff says I bounced a check. The Plaintiff cannot sue me because it did not write me at least 15 days before starting this case to tell me I could avoid court by paying back what I owed on the check plus \$30.

The Plaintiff gave me a payday loan and sued me but did not:

Offer me a payment plan to repay this debt with only a \$30 fee.

Send me a certified letter telling me it was going to start this case and giving me at least 15 days to respond before suing.

b. Damages:

I had the following costs:

I paid a lawyer for advice.

I had costs in this case to prepare, print and mail documents, like this *Answer*.

I missed work for court or some other reason related to what the Plaintiff did.

I lost property: _____

Other: _____

More pages are attached.

Therefore, the Court should: (Alaska Statute 45.50.531)

Order the Plaintiff to pay me \$500.

Order the Plaintiff to pay me 3 times the money the Plaintiff cost me. It cost me: \$_____. Three times that amount is: \$_____.

Other: _____

More pages are attached.

D. OFFER TO PAY

[If you want to make the plaintiff an offer to settle the case without having a trial, there are options below. The plaintiff does not have to agree to take your offer, and the court CANNOT make the plaintiff agree to a payment plan. If you make an offer that the plaintiff does not accept, the plaintiff cannot use that offer against you later in the court case to prove you admitted owing the debt. However, if you admit you owe the debt in any section of this Answer, the plaintiff may use it to prove you owe the debt and win the case.]

- I do not want to propose a plan to settle this debt at this time. *(Go to Section E.)*
- I have attached a draft agreement, which I signed, and agree that the court should close the case if the Plaintiff signs it and returns it to me and the court. Any offer I make to the plaintiff to try to settle the case cannot be admitted in court to prove liability according to Evidence Rule 408. *(See [CIV-485, Debt Settlement Agreement & Order Dismissing Case](#), for a draft settlement agreement.)*
- I would like to try to work with the Plaintiff to end this case with the following plan to pay, but if we do not reach agreement, I do not give up my right to state defenses and counterclaims or have a trial. Any offer I make to the plaintiff to try to settle the case cannot be admitted in court to prove liability according to Evidence Rule 408. *(Check all the boxes below that apply to your offer.)*

I will pay the debt using a payment plan where I will pay \$_____ each month until paid in full. I will start payments on _____. I will make payments each month of the following day of the month: _____.

I would like the total debt amount reduced to \$ _____ because:

_____.

I agree to pay any money I receive from my PFD to the Plaintiff until I have paid in full.

I agree that the court can make our agreement a formal part of the case, and if I do not follow the payment plan, the Plaintiff can return to court to get a judgment to collect the money we agree I owe.

Other: _____

_____.

I cannot make a payment plan right now because of my limited income, and I want to give notice to the Plaintiff that the income and/or assets listed here cannot be collected because they are exempt from execution. *(Do not check this box unless you have reviewed the [Judgment Debtor Booklet](#) to learn about exempt income and assets if the Plaintiff gets a judgment against you. Explain your situation on the lines below.)*

_____.

More pages are attached and incorporated by reference.

E. REQUEST FOR RELIEF

[Check all that apply, and write in any other things you want the court to do. If you want a jury trial, you must file a separate written request with this Answer, or within 10 days of filing this Answer.]

I request that the court:

- Dismiss this case because of the defense(s) stated in Section B.
- Grant the requests that I made about my counterclaim(s) at the end of in Section C.
- Sign an order allowing the payment request in Section D.
- Other: _____

| | | | |
|-----------------|-----------|-------|-----|
| Print Name | Signature | Date | |
| Mailing Address | City | State | ZIP |
| Phone | Email* | | |

* I authorize the court to email me court documents in this case to the email address above.

Certificate of Service

I certify that on the following date _____ a copy of this *Answer* and the following attached documents: _____

were mailed hand delivered to:

Opposing Party _____ Opposing Lawyer _____

Other _____ Other _____

Your signature: _____

Need help? See Alaska Court System’s Self-Help Service’s Debt Collection FAQs at: <http://courts.alaska.gov/shc/debt/answer.htm>