

Name: _____

Email: _____ Phone: _____

Mailing Address: _____

☐ I agree that the court and other parties can email me court documents instead of using regular mail.

[Fill in the court location, name, and case number the same way as on the complaint.]

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

Plaintiff

Defendant

CASE NO: _____

ANSWER & COUNTERCLAIM TO COMPLAINT TO COLLECT A DEBT

I, _____ *[your name]*, respond to Plaintiff's complaint and state that the following facts are true to the best of my knowledge:

☐ I was sued in small claims court, but I want to move the case to formal District Court. This is my written request to use the formal rules.

[Only check this box if you were sued under small claims, but want to use formal rules instead. Read about the differences between case types at ak-courts.info/sc95.]

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

[Only check this box if you want to change the place of trial. The court will only consider your request if you also file a written motion with the title "Motion to Change Venue." Read about filing motions at ak-courts.info/debtmot.]

A. ANSWER

- ☐ I agree with all of the statements in the complaint.
- ☐ I agree with all of the statements in the following paragraph numbers of the complaint: _____
- ☐ I am not sure if I agree or disagree with the statements in the following paragraph numbers of the complaint: _____
- ☐ I disagree with all or part of the statements in the following paragraph numbers 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. *[Write only on one side of each page.]*

B. AFFIRMATIVE DEFENSES

Defenses are reasons you should win the case instead of Plaintiff. Mark 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 Plaintiff anything or that you owe less than asked for in the complaint. Read about defenses at ak-courts.info/debtdef.

- ☐ I have no defenses. *[Go to Section C.]*
- ☐ I have the defenses listed below: *[Check below all defenses that you believe apply, and attach copies of any documents you have that support your defenses.]*
1. ☐ I did not enter an agreement or contract for the debt described in the complaint, because:
- ☐ Plaintiff made a mistake about the name of the person who made the contract. *[This might happen if you have a common name and you think Plaintiff has confused you with someone who has the same name.]*
 - ☐ Someone stole my identification and made this debt.
 - ☐ Other: _____
2. ☐ I disagree with the amount Plaintiff says that I owe, because:
- ☐ I once owed the debt, but the creditor (person who is owed money) told me I no longer 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 this agreement.
 - ☐ I owed the debt, but I paid all of it.
 - ☐ I owed the debt, but I paid part of it. I paid \$_____ and owe \$_____.
 - ☐ I have a contract or agreement with Plaintiff, but Plaintiff's math is wrong about how much I owe. I owe \$_____.
 - ☐ I have a contract or agreement with Plaintiff, but someone else made the charge/debt without my permission. *[This might happen if someone else made charges on your credit card.]*
 - ☐ Other: _____

3. ☐ I did not enter any agreement or contract with Plaintiff, and I do not believe Plaintiff can show they own the debt. *[This might happen if you had a contract or agreement with someone else, like a credit card company, and the Plaintiff says they bought your debt, but you are not sure they have evidence to prove they bought it.]*
4. ☐ This debt is too old. More than 3 years have passed since I 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. ☐ I have a bankruptcy case and this debt
☐ was discharged already.
☐ is being discharged.
Date case filed: _____ Bankruptcy case number: _____
7. ☐ I used collateral to get this loan, and Plaintiff took my collateral but did not follow the rules for selling it, because:
☐ I was not given appropriate notice about the sale of the collateral.
☐ Plaintiff did not sell my collateral in a fair way.
(Alaska Statute 45.29.601-.628)
8. ☐ The debt is for a payday loan, and Plaintiff did not:
☐ Offer me a payment plan to repay this debt with only a \$30 fee.
☐ Send me a certified letter telling me they were going to start this case and that I had at least 15 days to respond before they would start the case.
(Alaska Statute 06.50.550)
9. ☐ I do not owe Plaintiff any money, because 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.]*
Plaintiff was supposed to do the following:

☐ More pages are attached. *[Write only on one side of each page.]*
10. ☐ Plaintiff says I bounced a check. Plaintiff cannot sue me, because they 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.
(Alaska Statute 09.68.115)

- 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 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 to court. You may request another stay in 90 days if you are still unavailable.]

- 12.** ☐ Other: *[State any other reasons the court should not order you to pay Plaintiff.]*

[illegible]

- ☐ More pages are attached. *[Write only on one side of the page.]*

C. COUNTERCLAIM

A counterclaim is a legal claim you have against Plaintiff (a reason you could sue them in a court case). If you have a claim against Plaintiff from the same set of facts that Plaintiff is talking about in their complaint, and you do not list it here, you might lose your right to sue Plaintiff for it later. List below any counterclaims you have against Plaintiff. Read about counterclaims at <http://courts.alaska.gov/shc/debt/answer.htm#counterclaim>.

- ☐ I have no counterclaims. *[Go to Section D.]*

- ☐ I have the counterclaims listed below:

[Check below all counterclaims that you believe apply. Attach copies of any documents that support your counterclaims.]

- 1. ☐ Breach of Contract:** Plaintiff and I had an agreement or contract, and Plaintiff owes me something under the agreement. *[Explain below the agreement, how Plaintiff broke it, and what Plaintiff owes you.]*

[illegible]

- ☐ More pages are attached. *[Write only on one side of each page.]*

2. ☐ **Consumer Protection Violation:** I request that the court order Plaintiff to pay me, because 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 at least one box under both a. and b. below.]

a. Violation: *[Check the box that describes what Plaintiff did that caused you harm. Some claims only apply if Plaintiff is a debt collector, who regularly collects debts for other people or companies.]*

- ☐ 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, and if **I did not**, Plaintiff would believe I owed the debt and proceed with the case against me.
 - ☐ That I had 30 days to disagree in writing, and if **I did**, Plaintiff would send 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.

- ☐ Plaintiff is a debt collector who harassed or threatened me in the following way:
[Read examples at www.courts.alaska.gov/shc/debt/answer.htm#violate.]

☐ More pages are attached. *[Write only one side of each page.]*

- ☐ Plaintiff says they bought my debt, but I do not think they have admissible evidence to prove they bought it. Filing a debt collection lawsuit without admissible evidence is an unfair or deceptive practice.
- ☐ Plaintiff says I bounced a check. Plaintiff cannot sue me, because they 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 debt is for a payday loan, and Plaintiff did not:
- ☐ Offer me a payment plan to repay this debt with only a \$30 fee.
 - ☐ Send me a certified letter telling me they were going to start this case and that I had at least 15 days to respond before suing.

b. Damages (Alaska Statute 45.50.531)

I had the following costs:

- ☐ I paid a lawyer for advice.
- ☐ I had costs in this case to prepare, print, and mail paperwork (like this answer).
- ☐ I missed work for court or some other reason related to what Plaintiff did.
- ☐ I lost property: _____
- ☐ Other: _____

☐ More pages are attached. *[Write only on one side of each page.]*

Therefore, the court should:

- ☐ Order Plaintiff to pay me \$500.
- ☐ Order Plaintiff to pay me 3 times the money Plaintiff cost me.
It cost me \$ _____. Three times that amount is \$ _____.
- ☐ Other:

☐ More pages are attached. *[Write only on one side of each page.]*

D. OFFER TO PAY

If you want to make Plaintiff an offer to settle the case without having a trial, there are options below. Plaintiff does not have to agree to take your offer, and the court **cannot** make Plaintiff agree to a payment plan. If you make an offer that Plaintiff does not accept, 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, Plaintiff may use it to prove you owe the debt and win the case. **You need to fill out the other sections of this answer**, even if you make an offer to pay. Read about settlement at courts.alaska.gov/shc/debt/settlement.htm.

- ☐ I do not want to propose a plan to settle this case at this time. *[Go to Section E.]*
- ☐ I attached a draft agreement that I signed. I agree that the court should close the case if Plaintiff signs it and returns it to me and the court. Any offer I make to Plaintiff to try to settle the case cannot be admitted in court to prove liability according to Evidence Rule 408. *[Draft your own agreement or use "Debt Settlement Agreement & Order Dismissing Case," form CIV-484, at ak-courts.info/civ484.]*
- ☐ I would like to try to work with 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 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 by 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 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, Plaintiff can get a court judgment to collect the money I owe.
- ☐ Other:

- ☐ I cannot make a payment plan right now because of my limited income, and I want to give notice to 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 at ak-courts.info/civ511 to learn about exempt income and assets if Plaintiff gets a judgment against you. Explain your situation below.]

- ☐ More pages are attached. *[Write only on one side of each page.]*

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 for a jury trial with this answer, or within 10 days of filing this answer.]

I request that the court:

- ☐ Dismiss this case because of the defenses stated in Section B.
- ☐ Grant the requests that I made about my counterclaims in Section C.
- ☐ Sign an order allowing the payment plan I requested in Section D.
- ☐ Other:

Signature

Date

[If you are filing your answer using TrueFiling, you do not need to fill out the text box below.]

Certificate of Service

I certify that I served all the parties in this case by sending them a copy of this answer and the following attached documents:

I sent the documents on _____ *[date]* at _____ *[time]*

I sent the documents to:

- ☐ Plaintiff's Lawyer (if represented) or Plaintiff ☐ Other: _____
- ☐ Other: _____ ☐ Other: _____

The way I sent the documents was:

- ☐ mail ☐ hand-delivery ☐ email *[only allowed if the other party agreed to email service]*

Your signature: _____

Information about Filing and Serving Your Answer & Next Steps

(You do not need to file this page with the court)

You have 20 days after you receive the complaint to file your answer and any other documents you are attaching to it. If the due date is a weekend or holiday, your answer is due the next day the court is open. For example, if you count 20 days and it lands on a Saturday, and the court is open Monday, your answer is due Monday. Count 20 days from

- the date you signed the certified mail green postcard, or
- the date the process server delivered the court documents to you.

File Your Documents in the Court where the Case was Started and Serve Plaintiff

You must give Plaintiff a copy of everything you file with the court. This is called "service."

1. Fill out the Certificate of Service. This is a section at the end of your answer. Be sure you can serve Plaintiff on the date and in the way you put on the certificate. You can serve by regular first-class mail or hand-delivery. If Plaintiff files anything in court that says they agree to service by email, you can email it instead. If Plaintiff has a lawyer, you must email, mail, or hand-deliver the copy to their lawyer. If you use the court's TrueFiling system (ak-courts.info/truefile), it will serve any party who also uses TrueFiling.

2. File with the Court. Make 2 copies of everything you are going to give the court. Give the original version of your documents to the court. You can bring the original to your local court or mail it. Or contact your local court to see if they accept email or TrueFile filings. A court directory is available at ak-courts.info/dir.

3. Serve. Keep 1 copy for your own records. Give the second copy to Plaintiff on the date and in the way you wrote on your Certificate of Service. If you did not serve Plaintiff on the date or in the way you wrote on your Certificate of Service, fill out a new *Certificate of Service* (form [TF-700](http://ak-courts.info/TF-700)).

What to Expect after You File Your Answer and Serve a Copy on Plaintiff

If you do not file an answer, Plaintiff can ask the judge to decide the case without hearing from you. Read about filing for default at ak-courts.info/default.

After you file your answer, the court will set a hearing and send you a notice with the date, time, and location.

Need more help?

See Alaska Court System's Self-Help Services Debt Collection FAQs at <http://courts.alaska.gov/shc/debt/answer.htm>