

INSTRUCTIONS FOR PREPARING, FILING, AND SERVING AN ANSWER IN JUSTICE COURT

NOTE: *This document has been prepared as a courtesy and to assist you with completing your Answer. It is not to be construed as providing legal advice or representation on how to prepare your case or defense.*

If you've been served with a Summons and complaint in the Justice Court and have been named as a defendant in the case, you have the option of preparing, filing, and serving an Answer in response to the complaint. An Answer is your formal reply to the court and the plaintiff's attorney (or the plaintiff if he doesn't have an attorney.) You must reply to each paragraph/allegation in the complaint by admitting it, denying it, or denying it because you don't have enough knowledge or information to be able to admit it. You only have 20 days from the day you were served with the Summons and complaint to file and serve your Answer. If you don't file an Answer in the court and serve a copy to the plaintiff's attorney (or the plaintiff, if he's unrepresented) within 20 days of the day you were served, then the plaintiff may obtain a default judgment against you.

WARNING: The filing of an Answer affects your legal rights. If you file an Answer, you have agreed that the court in which you file your Answer has good and proper jurisdiction over you to decide your case.

PART I – PREPARING YOUR ANSWER

An Answer form is attached to these instructions. The Answer form is generic and not tailored to any particular type of case. The information you provide on the form should be either typewritten or neatly handwritten in ink. The Answer form is also available on the Court's website, www.carson.org, and can be downloaded from the website and filled out and printed from a computer.

1. Complete the caption as it appears on the Complaint: plaintiff's name, defendant's name, case number and department number. The case caption should remain the same throughout the case.
2. Insert your name on the blank line in the first paragraph designating you as the Defendant.
3. On the blank line for "1. Answering paragraph(s)/allegations," list the paragraph/allegation number of each paragraph/allegation in the Complaint that you ADMIT. If you "ADMIT" a paragraph/allegation, you're conceding that the facts and assertions contained in that paragraph/allegation are true and correct. Those facts and assertions will then be considered proved for purposes of the case. So, for example, if you ADMIT every allegation contained in paragraph/allegation 1 of the Complaint (in other words, if you concede that the facts and assertions in paragraph/allegation 1 are true

and correct), put a “1” on the line of your Answer, and so on for any other paragraph/allegations in the Complaint that you ADMIT.

4. On the blank line for “2. Answering paragraph(s)/allegations,” list the paragraph/allegation number of each paragraph/allegation in the Complaint that you DENY. If you “DENY” a paragraph/allegation, you’re asserting that some fact or assertion in that paragraph/allegation is untrue or incorrect. Those facts and assertions will remain at issue in the case, and the plaintiff will be required to prove those facts and assertions if they’re necessary to his claim against you. So, for example, if you DENY any allegation against you contained in paragraph/allegation 1 of the complaint (in other words, if some fact or assertion in paragraph/allegation 1 is untrue or incorrect), put a “1” on the line of your Answer, and so on for each of the remaining paragraph/allegations in the Complaint that you DENY.
5. On the blank line for “3. Answering paragraph(s)/allegations,” list the paragraph/allegation number of each paragraph/allegation in the Complaint that you don’t know how to respond to because you don’t have enough information or just don’t know. Any fact or assertion contained in those paragraph/allegations will be considered denied, and the plaintiff will be required to prove those facts and assertions if they’re necessary to his case. So, for example, if you can’t either admit or deny the allegations in paragraph/allegation 1 of the Complaint because you don’t have enough information or just don’t know, put a “1” on the line of your Answer.
6. On the blank line for “4. Answering paragraph(s)/allegations,” you have the opportunity to provide an explanation to a specific paragraph/allegation in the Complaint. For example, if you dispute some but not all of the allegations in a particular paragraph/allegation, you can specify those parts of the paragraph/allegation that you ADMIT and those parts that you DENY. You can also make additional facts known to the court in response to a paragraph’s allegations. List the paragraph/allegation number(s) and your explanation on the corresponding lines.
7. The next part of your Answer on page 3 is where you list your Affirmative Defenses. An “Affirmative Defense” is an argument or assertion of fact by the defendant that, if true, will defeat the plaintiff’s claim even if all of the allegations in the plaintiff’s complaint are true. The Affirmative Defenses listed are those stated in Justice Court Rules of Civil Procedure 8(c). A summary explanation of each defense listed is included with these instructions. However, you may want to contact an attorney for a full explanation of Affirmative Defenses and an analysis of whether a particular defense applies to your case.

WARNING: If you file an Answer and fail to state an Affirmative Defense that you not raise that defense thereafter. Additionally, if you have a claim against the plaintiff that arises out of the same transaction or occurrence as the subject of plaintiff’s lawsuit, then you must assert that

claim as a “Counterclaim” in your Answer. If you fail to assert that Counterclaim in your Answer, you may not assert that Counterclaim later.

8. You must date and sign your Answer on page 4.
9. Page 5 of your Answer contains the Certificate of Mailing. Provide the name and address for the plaintiff’s attorney (or the plaintiff if he does not have an attorney). You find this information on page 1 of the Complaint. By dating and signing the Certificate of Mailing, you are telling the court that you have served a copy of your Answer to the Plaintiff (if the plaintiff is unrepresented) or plaintiff’s attorney (see Part II – Serving and Filing Your Answer).
10. Before filing your Answer with the court, make two (2) copies.

PART II – SERVING AND FILING YOUR ANSWER

After completing your Answer, you must serve the plaintiff’s attorney (or plaintiff directly if he has no attorney) with a copy of your Answer by mail. You will find the attorney’s address on the first page of the Complaint. You must mail a copy to the plaintiff’s attorney on the same date that you filled in on the Certificate of Mailing on page 5 of your Answer.

Next, take your original Answer and the remaining copies to the clerk of the Justice Court in which the plaintiff’s Complaint was filed. The filing fee in Justice Court is \$71.00. Remember, your Answer is not official until it is filed. Be sure to go to the clerk in the same court in which the Complaint was filed. The clerk will file stamp your Answer and all of the copies. The clerk will then keep the original.

If you’re unable to afford the filing fee, Nevada law allows you to ask the court to waive your filing fee. Waiving the filing fee is at the judge’s discretion. If you want the court to waive your filing fee, complete a fee waiver form. You can obtain a fee waiver form called Motion, Affidavit, and Order to Proceed in Forma Pauperis on the Court website, www.carson.org.

PART III – WHAT HAPPENS AFTER I FILE MY ANSWER?

What happens after you file your Answer may depend on the admissions or denials you made in your Answer. Among other things, the plaintiff’s attorney might serve you with a Motion for Summary Judgment, a Motion for Judgment on the Pleadings, or a Motion for Discovery. For more information or for the proper form to use for an opposition to any of these motions, you may consider consulting with an attorney or Volunteer Attorneys for Rural Nevadans (VARN).

ANSWER CHECKLIST

Filled out Answer

Made 2 copies of Answer

Mailed copy of Answer to plaintiff's attorney (on the date that was filled out on the Certificate of Mailing)

Filed Answer with the court

AFFIRMATIVE DEFENSES

An "Affirmative Defense" is an argument or assertion of fact by the defendant that, if true, will defeat the plaintiff's claim even if all of the allegations in the plaintiff's Complaint are true. The following are very general definitions for the Affirmative Defenses set forth in Justice Court Rules of Civil Procedure 8(c). If you have questions regarding an Affirmative Defense or how it might apply to your case, you may consider consulting an attorney.

Accord and Satisfaction – This defense might apply if the parties agreed to give and accept something to settle the claim that's being argued about in the lawsuit, and then they performed that agreement. It might apply, for example, if plaintiff agreed to settle the claim for a lower amount than he's suing for, and defendant paid the lower amount to plaintiff. The "accord" is the new agreement, and the "satisfaction" is performance of the new agreement.

Arbitration and Award – This defense might apply if the same thing that is being argued about in the lawsuit has already been decided by an arbitrator in an arbitration. An "arbitration" is a sort of mini-trial, less formal than a court proceeding, where the parties present their case to an arbitrator, who then makes a decision.

Assumption of the Risk – This defense might apply if plaintiff suffered some personal injury as the result of an action he took, but plaintiff knew of the possible risk of harm beforehand and chose to go forward with the action anyway. Generally, a person can't recover for an injury he received when he voluntarily exposed himself to a danger that he knew about and appreciated.

Contributory Negligence – This defense might apply if plaintiff suffered some personal injury, but contributed to his own injury by being negligent along with the defendant who caused the injury.

Discharge in Bankruptcy – This defense might apply if defendant filed bankruptcy, and the claim that defendant is being sued for was included in the bankruptcy and "discharged" by the bankruptcy court.

Duress – “Duress” means compelling someone to act against his wishes or interests by force, false imprisonment, or threats. This defense might apply, for example, where force was used to get someone to sign a will or agreement, in which case a court could declare the will or agreement void.

Estoppel – “Estoppel” means that if plaintiff made a statement relating to the thing being sued for, and defendant relied on that statement to his injury, then the court might prevent plaintiff from taking some position different than the statement he first made. For example, in a case filed by a landlord to recover rent, if the landlord told the tenant that no rent would be charged for each month the tenant performed work at the apartment complex, and if the tenant actually performed the work, the court might find that the landlord was “estopped” (or precluded) from claiming he was entitled to rent for every month of the lease.

Failure of Consideration – “Failure of consideration” means that the thing that plaintiff is seeking payment for in his lawsuit has lost all of its value and become worthless or has ceased to exist. This defense might apply if, for example, plaintiff never performed the services he’s suing for, or if the product purchased from plaintiff is completely defective.

Fraud – “Fraud” means an intentional misrepresentation, deception, or concealment of an important fact, made with the intent to deprive another person of his rights or property or to otherwise injure another person. For example, if a car dealer sold a car and told the buyer that the car was a 2009 model in pristine condition, but the dealer actually knew that the car was a 2001 model that had been repeatedly wrecked, the dealer might be guilty of fraud.

Illegality – This defense might apply if the contract at issue in the case requires a party to perform an illegal act or to violate the law, in which case the contract might be unenforceable.

Injury by Fellow Servant – This defense might be used by an employer who is being sued by an employee for some personal injury the employee suffered on the job, where the injury to the employee as actually caused by the negligence or misconduct of another employee (i.e., a “fellow servant” of the injured employee).

Laches – This defense might apply if plaintiff failed to act promptly to enforce his rights. If plaintiff waited a long time to file a lawsuit, without having a good reason for the delay, and the delay has made it harder for defendant to defend the case, “laches” might apply to bar plaintiff’s lawsuit.

License – This defense might apply if defendant received permission from plaintiff or some other authority to take the action that plaintiff is now suing over, which action would have been unlawful if defendant had not received permission. For example, plaintiff might not be able to recover against defendant for trespass if plaintiff gave defendant permission (or “license”) to enter his property.

Payment – This defense might apply if the payment at issue in the lawsuit has already been made (or the promise fulfilled or the agreement performed).

Release – This defense might apply if plaintiff has made some written or oral statement discharging (or “releasing”) defendant from the payment, obligation, or duty that is the subject of plaintiff’s lawsuit.

Res Judicata – “Res judicata” literally means a thing that has already been judicially decided. This defense might apply if plaintiff’s claim in his current lawsuit has already been decided by a court in a previous lawsuit and a final judgment has been entered.

Statute of Frauds – The “statute of frauds” is a law that requires many different types of contracts to be in writing. This defense might apply if the parties have no written contract and the “deal” that plaintiff is suing on relates to the sale of goods priced over \$500 , or the sale of land, or the guaranty of someone else’s debt, or some service or obligation that couldn’t be performed within one year.

Statute of Limitations – The “statute of limitations” is a law that sets the maximum time periods during which certain claims can be brought or rights enforced. If plaintiff files his complaint after the time period set out in the statute has past, the court might dismiss plaintiff’s complaint and find that it’s barred by the statute of limitations.

Waiver – This defense might apply if plaintiff has knowingly given up some right or if plaintiff’s actions could lead the court to believe that he’s given up that right. For example, if an apartment lease requires payment of rent on the first of every month, but the landlord has always allowed the tenant to pay on the fifteenth of every month a court might find that the landlord has “waived” his right to enforce the lease’s requirement that rent be paid on the first.

IN THE JUSTICE/MUNICIPAL COURT OF CARSON TOWNSHIP

IN AND FOR CARSON CITY, STATE OF NEVADA

	)	Case No.: _____
Plaintiff,	)	Dept. No.: _____
	)	
vs.	)	ANSWER
	)	
	)	
Defendant	)	
	)	
	)	

Defendant(s), _____, *Pro Se*, hereby submits this Answer
to the Complaint on file herein, and alleges as follows:

1. Answering paragraph/allegation(s)_____

of Plaintiff's complaint, Defendant(s) ADMITS each and every allegation contained therein.

2. Answering paragraph/allegation(s)_____

of Plaintiff's Complaint, Defendant(s) DENIES each and every allegation contained therein.

3. Answering paragraph/allegation(s)_____

of Plaintiff's Complaint, Defendant(s) state(s) that Defendant(s) do(es) not have sufficient knowledge or information to form a belief as to the truth of this Allegation. Therefore Defendant(s) DENIES each and every allegation contained therein.

4. Answering paragraph/allegation(s)_____

of the Plaintiff's complaint, Defendant(s) STATE(S)_____

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AFFIRMATIVE DEFENSES

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2 1. Defendant(s) hereby incorporate(s) by reference those affirmative defenses
3 enumerated in JCRCP 8 as though fully set forth herein, as applicable upon discovery. In the
4 event further investigation or discovery reveals the applicability of any such defenses,
5 Defendant(s) reserve(s) the right to seek leave of court to amend this Answer to more
6 specifically assert any such defense. Such defenses are herein incorporated by reference for the
7 specific purposes of not waiving any such defenses.

8 _____ . Accord and satisfaction.

9 _____ Arbitration and award.

10 _____ Assumption of risk.

11 _____ Contributory negligence.

12 _____ Discharge in bankruptcy.

13 _____ Duress.

14 _____ Estoppel.

15 _____ Failure of consideration.

16 _____ Fraud.

17 _____ Illegality.

18 _____ Injury by fellow servant.

19 _____ Laches.

20 _____ License.

21 _____ Payment.

22 _____ Release.

23 _____ Res Judicata.

24 _____ Statute of frauds.

25 _____ Statute of limitations.

_____ Waiver.

2. All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon filing of this Answer. Therefore, Defendant(s) reserve(s) the right to amend this Answer to allege additional affirmative defenses and claims, counter-claims, cross-claims or third-party claims, as applicable, upon further investigation and discovery.

WHEREFORE, this Answering Defendant prays that this Honorable Court will:

1. Dismiss the Complaint with prejudice or grant Plaintiff a reduced amount based upon the admissions, denials and affirmative defenses, if any, as alleged above herein;
2. Award Defendant(s)'s costs; and
3. Award Defendant(s)'s further relief as the court deems just and equitable.

Pursuant to Nevada Revised Statute 53.045, I declare under penalty of perjury that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

Defendant *Pro Se*

Name: _____
Mailing Address: _____
City, State, Zip: _____
Telephone: _____

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the _____ day of _____, 20_____, I
placed a true and correct copy of the foregoing **ANSWER** in the United States Mail at
_____ Nevada, with first-class postage prepaid,
addressed to the following:

