

DEBT CASE INFORMATION FOR DEFENDANTS

You have been sued for a debt you allegedly owe. You have the right to contest the action. You must file a written answer within 14 days, an adverse judgment is likely to be entered against you. An answer form IS PROVIDED TO YOU ON PAGE 2 BELOW.

When you file an answer (SEE ANSWER FORM ON THIS PAGE), your case will automatically be referred for **MEDIATION**. There is no cost for **MEDIATION**.

You may reject mediation and go directly to trial by Judge or jury if you wish. A \$22 fee must be sent to the Court with a jury request.

The person filing against you must prove you owe the debt. You have the right to dispute it.

RESOURCES

Northwest Texas Legal Aid: 1-888-529-5277

Texas Law help website for information or forms: <https://texaslawhelp.org/>

OCA information on representing yourself: <https://www.txcourts.gov/programs-services/self-help/self-represented-litigants/>

Forms in Spanish- <https://www.tjctc.org/tjctc-resources/forms/spanish-forms.html>

The **Lubbock County Law library** is located in the Lubbock County Courthouse annex at 916 Main, Suite 306 (3rd floor). The law librarian, Nan Campbell, can be reached at (806)775-1667.

Judge Jim Hansen

Physical Address- 904 Broadway, Room 110 Lubbock, Texas

Mailing Address- P.O. Box 10536, Lubbock, Texas 79408

Civil Division phone (806) 775-1549 or (805) 775-1550

ANSWER FORM for case number _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
v.	§	PRECINCT NO. 1
_____	§	
DEFENDANT	§	LUBBOCK COUNTY, TEXAS

DEFENDANT'S ANSWER (SMALL CLAIMS OR DEBT CLAIM CASE)

This Answer is made by Defendant _____, who further answers as follows (You may write I AGREE, or state the reasons you DISAGREE and describe other defenses, if any):

(you may write on the reverse side if you need more space)

I hereby consent or do not consent to email service of all motions, pleadings or other documents filed in this case to be sent to my email address as follows:

Defendant requests that the Court enter judgment for Defendant, award Defendant's costs and for such other and further relief to which Defendant may prove to be justly entitled.

_____	_____
Signature of Defendant	Signature of Attorney, if any
Printed Name: _____	Printed Name: _____
Address: _____	Address: _____
_____	_____
Telephone: _____	Telephone: _____
Fax: _____	Fax: _____
	State Bar No.: _____

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Answer was served on the Plaintiff on the _____ day of _____, 20____, pursuant to Texas Rule of Civil Procedure 501.4 by:

- Personal delivery
- Mail
- Fax
- Email (if both parties have agreed in writing and provided an email address)
- Another method approved by the court: _____

Defendant's Signature



DEBT CLAIM CASES

For those filing DEBT CLAIM cases, be aware that the 500-507 series of rules can be located under the SMALL CLAIMS on this website. It is essential they be read if you are planning to file a DEBT CLAIM cases. The Rules of Civil Procedure and Rules of Evidence DO NOT APPLY to DEBT CASES unless specifically referenced in Rules 500-508.

Plaintiffs can no longer seek a Judgment under Rule 93. Imbedded omissions are no longer allowed and will be stricken, and parties who continue to file petitions with imbedded omissions may face sanctions.

All discovery must be approved by the court (SEE Rule 500.9).

RULE 508.1. APPLICATION

Rule 508 applies to a claim for the recovery of a debt brought by an assignee of a claim, a financial institution, a debt collector or collection agency, or a person or entity primarily engaged in the business of lending money at interest.

RULE 508.2. PETITION

(a) *Contents.* In addition to the information required by Rule 502.2, a petition filed in a lawsuit governed by this rule must contain the following information:

- (1) Credit Accounts. In a claim based upon a credit card, revolving credit, or open account, the petition must state:
 - (A) the account or card name;
 - (B) the account number (which may be masked);
 - (C) the date of issue or origination of the account, if known;
 - (D) the date of charge-off or breach of the account, if known;
 - (E) the amount owed as of a date certain; and
 - (F) whether the plaintiff seeks ongoing interest.

(Note from Judge- more information will be necessary to obtain interest)
- (2) Personal and Business Loans. In a claim based upon a promissory note or other promise to pay a specific amount as of a date certain, the petition must state:
 - (A) the date and amount of the original loan;
 - (B) whether the repayment of the debt was accelerated, if known;
 - (C) the date final payment was due;
 - (D) the amount due as of the final payment date;

- (E) the amount owed as of a date certain; and
- (F) whether plaintiff seeks ongoing interest.

(3) Ongoing Interest. If a plaintiff seeks ongoing interest, the petition must state:

- (A) the effective interest rate claimed;
- (B) whether the interest rate is based upon contract or statute; and
- (C) the dollar amount of interest claimed as of a date certain.

(4) Assigned Debt. If the debt that is the subject of the claim has been assigned or transferred, the petition must state:

- (A) that the debt claim has been transferred or assigned;
- (B) the date of the transfer or assignment;
- (C) the name of any prior holders of the debt; and
- (D) the name or a description of the original creditor.

RULE 508.3. DEFAULT JUDGMENT

(a) *Generally.* If the defendant does not file an answer to a claim by the answer date or otherwise appear in the case, the judge must promptly render a default judgment upon the plaintiff's proof of the amount of damages.

(b) *Proof of the Amount of Damages.*

- (1) Evidence Must Be Served or Submitted. Evidence of plaintiff's damages must either be attached to the petition and served on the defendant or submitted to the court after defendant's failure to answer by the answer date.
- (2) Form of Evidence. Evidence of plaintiff's damages may be offered in a sworn statement or in live testimony. The evidence offered may include documentary evidence.
- (3) Establishment of the Amount of Damages. The amount of damages is established by evidence:
 - (A) that the account or loan was issued to the defendant and the defendant is obligated to pay it;
 - (B) that the account was closed or the defendant breached the terms of the account or loan agreement;
 - (C) of the amount due on the account or loan as of a date certain after all payment credits and offsets have been applied; and
 - (D) that the plaintiff owns the account or loan and, if applicable, how the plaintiff acquired the account or loan.
- (4) Documentary Evidence Offered By Sworn Statement. Documentary evidence may be considered if it is attached to a sworn statement made by the plaintiff or its representative, a prior holder of the debt or its representative, or the original creditor or

its representative, that attests to the following:

- (A) the documents were kept in the regular course of business;
- (B) it was the regular course of business for an employee or representative with knowledge of the act recorded to make the record or to transmit information to be included in such record;
- (C) the documents were created at or near the time or reasonably soon thereafter; and
- (D) the documents attached are the original or exact duplicates of the original.

(5) **Consideration of Sworn Statement.** A judge is not required to accept a sworn statement if the source of information or the method or circumstances of preparation indicate lack of trustworthiness. But a judge may not reject a sworn statement only because it is not made by the original creditor or because the documents attested to were created by a third party and subsequently incorporated into and relied upon by the business of the plaintiff.

(c) **Hearing.** The judge may enter a default judgment without a hearing if the plaintiff submits sufficient written evidence of its damages and should do so to avoid undue expense and delay. Otherwise, the plaintiff may request a default judgment hearing at which the plaintiff must appear, in person or by telephonic or electronic means, and prove its damages. If the plaintiff proves its damages, the judge must render judgment for the plaintiff in the amount proven. If the plaintiff is unable to prove its damages, the judge must render judgment in favor of the defendant.

(d) **Appearance.** If the defendant files an answer or otherwise appears in a case before a default judgment is signed by the judge, the judge must not render a default judgment and must set the case for trial.

(e) **Post-Answer Default.** If a defendant who has answered fails to appear for trial, the court may proceed to hear evidence on liability and damages and render judgment accordingly.