

DEFENSES

1
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.

26 _____. Waiver.

27 ///

28 ///

POTENTIAL DEFENSES

1
2 1. _____. Failure to state a claim upon which relief can be granted.

3 2. _____. The amounts claimed in the Complaint violate the doctrine of
4 unconscionability and should not be enforced. Johnson v. Cash Store, 68 P.3d 1099 (Wash. Ct.
5 App. 2003); Pinkett v. Moolah Loan Co., 1999 U.S. Dist. LEXIS 172276, 1999 WL 1080596
6 (D. Ill., 1999).

7 3. _____. The late charges sued upon, if any, when charged on top of exorbitant interest,
8 are liquidated damages and void as a penalty under In re Bryant, 39 B.R. 313 (D. Nev. 1984);
9 Golden v. McKim, 37 Nev. 205, 141 Pac. 676 (1914).

10 4. _____. Defendant may be entitled to a setoff and/or offset.

11 5. _____. The Plaintiff's claim is offset by statutory damages available to Defendant
12 under the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692, et seq., for Plaintiff's
13 failure to provide Defendant with a written notice of and/or verification of the alleged debt that
14 meets the requirements of 15 U.S.C. § 1692g.

15 6. _____. This debt was incurred prior to my active military duty, and under the Service-
16 members Civil Relief Act, 50 U.S.C. § 501, interest on that debt must be reduced to 6% and any
17 amount higher must be forgiven.

18 7. _____. Plaintiff violated Nevada Revised Statute Chapter 604A, the particulars to be
19 determined upon full discovery. If Plaintiff is found to have willfully violated any provision of
20 NRS Chapter 604A, then the loan is void and the lender is not entitled to collect, receive, or
21 retain any principal, interest, or other charge or fee (NRS 604A.900). Additionally, if Plaintiff is
22 found to have knowingly violated particular provisions of NRS Chapter 604A, Defendant is
23 entitled to recover \$1,000 for each such violation (NRS 604A.930(2)). As such, Defendant may
24 owe Plaintiff nothing, may be entitled to a full refund of all monies previously paid to Plaintiff,
25 and may be entitled to an award of statutory damages.

26 8. _____. Plaintiff violated Nevada Revised Statute Chapter 675, the particulars to be
27 determined upon full discovery.
28

1 9. _____. Plaintiff has engaged in Deceptive Trade Practices in violation of Nevada
2 Revised Statute Chapter 598, entitling Defendant to actual damages under NRS 41.600.

3 10. _____. _____
4 _____
5 _____.

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

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

12 1. Dismiss the Complaint with prejudice or grant Plaintiff a reduced amount based upon
13 the admissions, denials and affirmative defenses, if any, as alleged above herein;

14 2. Award Defendant(s)'s costs; and

15 3. Award Defendant(s) such other and further relief as the Court deems just and
16 equitable.

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

19 DATED this ____ day of _____, 20____,
20

21 _____
22 Defendant *Pro Se*
23
24
25
26
27
28

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 Las Vegas, Nevada, with first-class postage prepaid, addressed to the following:

Defendant *Pro Se*