INSTRUCTIONS FOR PREPARING, FILING, AND SERVING AN ANSWER IN JUSTICE COURT
(Debt or Loan)

If you've been served with a Summons and Complaint in 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 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 with 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 intended to be used in a case involving a dispute over a consumer debt or loan and contains additional defenses for such a case. It also contains a form letter you can use to obtain written verification of the alleged debt. The information you provide on the form should be either typewritten or neatly handwritten in ink. The Answer form is also available on the Self-Help Center's website, www.clarkcountycourts.us/self-help.html, and can be downloaded from the website and filled out and printed from a computer.

- On page 1 of the Answer, start by completing your name (line 1), address (lines 2 and 3), and telephone number (line 4). You'll see on line 5 that you're designated as the "Defendant pro se." The "defendant" is the person defending the case. The phrase "pro se" lets the court know that you're defending yourself.

- On page 1, lines 7 to 13, 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.

- On page 1, line 14, fill in the blank with your name. Notice again that you're designated as the defendant "pro se," which means that you're defending yourself in the case.

- In paragraph 1 of your Answer (line 16 on page 1), list the paragraph number of each paragraph in the Complaint that you ADMIT. If you "ADMIT" a paragraph, you're

conceding that the facts and assertions contained in that paragraph 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 1 of the Complaint (in other words, if you concede that the facts and assertions in paragraph 1 are true and correct), put a "1" on line 16 of your Answer, and so on for any other paragraphs in the Complaint that you ADMIT.

- In paragraph 2 of your Answer (line 18 on page 1), list the paragraph number of each paragraph in the Complaint that you DENY. If you "DENY" a paragraph, you're asserting that some fact or assertion in that paragraph 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 1 of the Complaint (in other words, if some fact or assertion in paragraph 1 is untrue or incorrect), put a "1" on line 18 of your Answer, and so on for each of the remaining paragraphs in the Complaint that you DENY.

- In paragraph 3 of your Answer (line 20 on page 1), list the paragraph number of each paragraph 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 paragraphs 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 1 of the Complaint because you don't have enough information or just don't know, put a "1" on line 20 of your Answer.

- In paragraph 4 (lines 24 to 27), you have the opportunity to provide an explanation to a specific paragraph in the Complaint. For example, if you dispute some but not all of the allegations in a particular paragraph, you can specify those parts of the paragraph 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 number(s) on line 24 and your explanation on lines 25 to 27.

- The next part of your Answer on page 2 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 Rule 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 the Affirmative Defenses and an analysis of whether a particular defense applies to your case.

- On page 3 of your Answer, lines 1 through 20, are additional Affirmative Defenses relating to the collection of a debt or loan that may be applicable to your case. 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 the additional

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 have, then you may forever be barred from raising that defense. Additionally, if you have a claim against the plaintiff that arises out of the transaction or occurrence that is the subject of plaintiff's lawsuit, then you must assert that claim as a "Counterclaim" in your Answer. Failure to do so may result in forever being barred from making that claim.

- You must date and sign your Answer on page 4, lines 11 to 15.

- The bottom of page 4 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) on lines 21 to 25. You can find this information on the top of 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 & Filing Your Answer).

- Before filing your Answer with the court, make at least four (4) copies.

PART II - SERVING & 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 4, line 18, 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 in 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 and at least two copies.

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 at the Self-Help Center or on the Center's website, www.clarkcountycourts.us/self-help.html.

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 should contact an attorney or visit the Self-Help Center or its website, www.clarkcountycourts.us/self-help.html.

If you believe you owe the amount alleged in the Complaint and wish to begin repaying it, you may be able to establish a repayment plan with the plaintiff's attorney. Keep in mind, however, that the plaintiff's attorney might have you sign a Confession of Judgment or Stipulation and Order for Judgment. Before agreeing to or signing any document, it is advisable to consult an attorney. You should carefully read the terms of the agreement including the rate of interest, attorney's fees provision, payment schedule, and terms of default. Remember that if you default on a payment plan, a judgment could be filed with the court and your wages and bank account could be garnished.

PART IV – VERIFY THE VALIDY OF THE DEBT

The Complaint that you received might well have contained a notice stating that you have 30 days to dispute the validity of the debt at issue in the case. A federal law called the Fair Debt collection Practices Act requires that such a notice be given the first time a collection agency (or attorney) contacts a person to collect a debt.

Included with this packet is a form letter that you can send to the creditor (or attorney) to dispute the validity of the debt or any part of the debt. You should send this letter by certified mail. Be sure to keep a copy of the letter for your records. In response to the letter, the collection agency (or attorney) must then obtain verification of the debt and provide you with copies of that verification.

For more information about your rights when dealing with collection agencies, you can visit the Federal Trade Commission's website at www.ftc.gov.

ANSWER CHECKLIST

- ☐ Filled out Answer
- ☐ Made 4 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 Rule of Civil Procedure 8(c). If you have questions regarding an Affirmative Defense or how it might apply to your case, you should consult with 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 was 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.

ADDITIONAL POTENTIAL AFFIRMATIVE DEFENSES

Failure to State a Claim – Every lawsuit must have at least one claim. A "claim" is a legal theory upon which a lawsuit can be based and which -- if all the elements of the claim are proven -- provides the basis for a court to award damages. Each claim has certain parts that must be written in the complaint and proved at trial. This defense might apply if you think the plaintiff has failed to include a necessary part of his claim in his Complaint.

Unconscionability – If something is "unconscionable," it is so outrageous that it literally "shocks the conscience." If a court finds that a term of a contract is unconscionable, the court can invalidate the term and refuse to enforce it. The court might require the term to be procedurally unconscionable (which means that the party signing the contract didn't have a meaningful opportunity to agree to the term because of unequal bargaining power or because the term's operation wasn't clear) and substantively unconscionable (which means that the term is completely one-sided).

Late Charges Void as Penalty – This defense might apply if the late charges plaintiff is claiming in the lawsuit don't bear any relation to the damages plaintiff actually suffered and, in reality, are a penalty meant to punish defendant. The parties to a contract can include a provision that awards a set amount of money if one party breaches, which is intended to compensate the party that didn't breach for his actual losses. These provisions are called "liquidated damages" provisions, and they're typically enforceable unless the amount of money to be paid is so disproportionate to any actual loss that it amounts to a "penalty" intended to punish the party that breached the contract.

Setoff and Offset – This defense might apply if plaintiff owes defendant money, or plaintiff failed to credit defendant for money already paid. If Plaintiff owes Defendant money, Defendant may be able to apply that money to reduce ("offset") the amount that Defendant owes to Plaintiff.

Offset for Violation of FDCPA – The Fair Debt Collection Practices Act is a federal law that requires collection agencies to provide written notice and verification of a debt that meets certain requirements. If plaintiff is a collection agency (or attorney) and has violated the Act, it could be liable to defendant for damages. Defendant might be able to apply those damages to reduce ("offset") the amount of money he owes to plaintiff.

Military Service – This defense might apply if defendant is or was an active member of the military. The Servicemembers Civil Relief Act is a federal law that provides a wide range of protections for individuals entering the military, called to active duty, or deployed. It may postpone, suspend, or modify certain civil obligations, including the amount of interest that can be charged on a debt.

_____

(NAME)

_____

(STREET ADDRESS)

_____

(CITY, STATE ZIP CODE)

_____

(DATE)

_____

(CREDITOR OR ATTORNEY'S NAME)

_____

(STREET ADDRESS)

_____

(CITY, STATE ZIP CODE)

Re: _____

(CASE NUMBER OR ACCOUNT NUMBER)

To whom it may concern:

Please be advised that I am disputing this debt. Please provide written verification of the validity of this debt by forwarding the name and address of the original creditor and all contracts, correspondences, billing records, payment histories and notices to the above address.

This request has been made pursuant to the Fair Debt Collection Practices Act and failure to comply will be considered a violation of federal law under 15 U.S.C. § 1692.

Additionally, Nevada law requires that a collection agency obtain or attempt to obtain from the creditor any document that is not in the possession of the collection agency and is reasonably responsive to the dispute of the debtor, and mail the document to the debtor.

Thank you for your immediate attention to this matter.

Sincerely,

_____

Defendant Pro Se

via certified mail # _____