

Instructions for Filing an Answer in a Civil Case (Non Family Law)

Note: This checklist does not apply to family law cases, such as divorce, child support, custody, visitation, or modification.

To respond in a family law case, see <https://texaslawhelp.org/article/how-file-answer-family-law-case> [1] **How to File an Answer in a Family Law Case** (<https://texaslawhelp.org/article/how-file-answer-family-law-case>) [1].

Need Help?

- Use our **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [2] tool to search for legal help in your area.
- Check our **Legal Clinic Calendar** (<https://texaslawhelp.org/legal-aid-clinic-calendar>) [3] to see if there is an upcoming legal clinic near you.
- Use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [4] to chat online with a lawyer or law student.

WARNING! The information and forms in this toolkit are not legal advice and are not a substitute for the help of a lawyer. It's a good idea to talk with a lawyer about your particular situation.

☐ **Step 1: Calculate the deadline to file your answer (if you were served).**

If you have been officially served with a Citation and Petition, there is a deadline to file your answer.

- To determine the deadline, find the day you were served on a calendar, count out 20 more days (including weekends and holidays) then go to the next Monday. You must file your answer with the court on or before this date at 10:00 a.m. If the 20th day falls on a Monday, go to the next Monday. If the courts are closed on the day your answer is due, then your answer is due the next day the courts are open.
- If you are served and do not file an answer on or before the deadline, the plaintiff can finish the case without any further notice to you. This is called a “default judgment.”
- You **may** be able to file your answer late. If the plaintiff **has not**

finished the case, you can file your answer after the deadline.

- To learn if the plaintiff has finished the case, call the district clerk's office (where the case was filed). Ask the clerk if the judge has signed a final order in the case. If the judge has not signed a final order the case is still pending and you can file your answer late. If the judge has signed a final order the case is finished.
- If the plaintiff **has** finished the case, talk to a lawyer right away. Depending on how much time has passed, you may be able to file a Motion to Set Aside the Default Judgment.
 - For more information and forms, read: **[How to set aside \(cancel\) a default judgment. \(https://texaslawhelp.org/article/how-set-aside-cancel-default-judgment\)](https://texaslawhelp.org/article/how-set-aside-cancel-default-judgment)** [5]

If you have NOT been officially served, there is no deadline to file your answer. You can file your answer at any time after the plaintiff files its Petition (the form that starts lawsuit) with the court. If you file your answer now, the plaintiff will not need to have you served.

Important: The 20-day deadline applies to cases filed in the district courts and county courts at law. A **shorter** deadline may apply to your case, and will appear on your "citation." Some exceptions to the 20-day deadline are below:

- To determine the deadline for filing an answer in a **justice court** (that is not an eviction case), find the day you were served on a calendar, count out 14 more days (including weekends and holidays). You must file your answer with the court on or before this day. If the court is closed on the day your answer is due (or if the court closes before 5:00 p.m. on the day your answer is due), then your answer is due the next day the court is open.
- The answer deadline for an **eviction** case is often between 7 to 10 days from the day you were served and will be written for you in your "citation" (court paper that gives you notice of the lawsuit that you get when you are served with the petition). Read your "citation" and court papers carefully to determine your answer deadline. In some courts, however, filing a written answer for an eviction is not required. Instead, you must go to court on the specific date and time noted in your "citation."

Note for out-of-state respondents: Talk with a lawyer before filing an

Answer, if you 1) do not live in Texas and 2) do not want a Texas court to have the power to make orders that would impose a personal obligation on you. Such orders could include orders requiring you to pay court costs and lawyer's fees.

If you file an answer (or any other pleading) before filing a special appearance, you will give up your right to argue that Texas can't make such orders because you live out-of-state. Ask a Texas lawyer to help you determine if Texas has "personal jurisdiction" over you. TexasLawHelp does not have a special appearance form right now.

☐ **Step 2: Fill out the Answer Form**

Answer every question and fill out every blank on the form.

(<https://texaslawhelp.org/form/civil-answer-and-information-sheet>) [6]

Click here for the Answer Form (<https://texaslawhelp.org/form/civil-answer-and-information-sheet>) [6] (PDF)

Click here for the Guided Answer Form (<https://texaslawhelp.org/guided-form/civil-answer-and-information-sheet-guided-form>) [7]. With a guided form, you can answer a series of questions to complete the form automatically.

When completing the form:

- You are the "defendant." The other side is the "plaintiff."
- **Case information.** Find the cause number, court number, county and court type on the Petition filed by the plaintiff. Write the same cause number, court number, county and court type in the corresponding places on the form.
- **Affirmative defenses.** Affirmative defenses are a way to tell the judge new information about the case that can help a defendant win even if what the plaintiff is saying is true. Learn more by reading the TexasLawHelp.org article, **Affirmative Defenses Guide & Examples.** (<https://texaslawhelp.org/article/affirmative-defenses-information-and-examples>) [8] on affirmative defenses. If you have questions on which affirmative defenses (if any) apply to your case, it is important to

talk with a lawyer. (<https://texaslawhelp.org/types-help>) [9]

- **Verified pleas.** This section of the form asks you to identify certain matters that apply to your case that the law says must be “verified.”
 - To verify something means that you sign under penalty of perjury that this information is true and correct.
 - It is really important that you complete this section with the **help of a lawyer. (<https://texaslawhelp.org/types-help>) [9]**
 - The answer form has an **Unsworn Declaration (<https://texaslawhelp.org/form/unsworn-declaration>) [10]** for you to sign to verify your pleas, if any, that apply to your case.
- **Certificate of service.** Fill out the Certificate of Service to show how you will give the plaintiff’s lawyer (or the plaintiff if the plaintiff does not have a lawyer) a file-stamped copy of your answer.
- **Print and sign the answer form.**
 - Sign your name and write the date in paragraph 5.
 - Sign the **unsworn declaration under penalty of perjury** in paragraph 6.
 - **Note:** It is important that everything in your answer form is true and correct. You can be disciplined for lying on this form.
 - Sign your name and write the date in the Certificate of Service in paragraph 7.
- **Talk to a lawyer if you have questions or need help. (<https://texaslawhelp.org/types-help>) [9]**

Make a copy of your completed answer form for yourself and for the plaintiff.

☐ **Step 3: File (turn in) your answer form.**

File (turn in) your completed answer form with the court.

- To file online, go to **E-File Texas (<https://efile.txcourts.gov/ofsw eb>) [11]** and follow the instructions.
- To file in person, take your answer (and copies) to the district clerk’s office in the county where the plaintiff filed the case.

At the clerk's office:

- Turn in your answer form (and copies).
- Ask the clerk if there are local rules or procedures you need to know about for your case.
- The clerk will “file stamp” your forms with the date and time. The clerk will keep the original and return your copies. One copy is for you and the other copy is for the plaintiff.

Note: It does not cost anything to file an answer. Filing an answer is FREE.

☐ **Step 4: Send a copy to the plaintiff.**

Send a file-stamped copy of your answer to the plaintiff. If the plaintiff has a lawyer, send it to the lawyer instead of directly to the plaintiff. You can send it by:

- Hand delivery
- Email
- Mail
- Commercial delivery service (for example FedEx)
- Fax
- Electronic service through the electronic filing manager.
 - (**Note:** The method is required if you electronically file (E-File) this document and the email address of the party or the party's lawyer is on file with the electronic file manager.)

☐ **Step 5: Learn more.**

Filing an answer protects your right to have a say in the issues involved in your case. Once you file an answer, the plaintiff cannot finish the case unless:

1. you agree to and sign a final *Order*, **or**
2. the plaintiff gives you notice of a contested hearing date.

Filing an answer does not mean your case is over.

Talk with a lawyer if you have questions or need advice.

(<https://texaslawhelp.org/types-help>) [9]

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Links

- [1] <https://texaslawhelp.org/article/how-file-answer-family-law-case>
- [2] <https://texaslawhelp.org/legal-help/legal-help-finder>
- [3] <https://texaslawhelp.org/legal-aid-clinic-calendar>
- [4] <https://texaslawhelp.org/ask-question>
- [5] <https://texaslawhelp.org/article/how-set-aside-cancel-default-judgment>
- [6] <https://texaslawhelp.org/form/civil-answer-and-information-sheet>
- [7] <https://texaslawhelp.org/guided-form/civil-answer-and-information-sheet-guided-form>
- [8] <https://texaslawhelp.org/article/affirmative-defenses-information-and-examples>
- [9] <https://texaslawhelp.org/types-help>
- [10] <https://texaslawhelp.org/form/unsworn-declaration>
- [11] <https://efile.txcourts.gov/ofswb>

Cause Number _____

(Complete the heading so that it looks exactly like the Petition)

Plaintiff (Print Full Name)

In the (check one):

Court Number

- ☐ District Court
☐ County Court at Law
☐ Justice Court (JP)

VS_____
Defendant (Print Full Name)_____
County, Texas

Defendant's Answer

WARNING: Talk to a lawyer before filling out this form. You may accidentally give up important legal rights if you file this form with the Court without first talking to a lawyer. For help finding a lawyer, call your local lawyer referral service. If you do not have enough money to hire a lawyer to take your whole case, you can hire a lawyer just to give you advice and help you fill-out this form. This is called Limited Scope Representation. You may also be able to talk to a lawyer for free at a legal advice clinic. For help finding a free legal advice clinic go to www.TexasLawHelp.org.

INSTRUCTIONS: If you decide to use this *Defendant's Answer* form:

- Fill it out completely and sign it.
- File (*turn in*) your completed answer form at the Courthouse where the *Petition* was filed.
- It does not cost anything to file an answer.
- If you have been served, you have a limited time to file an answer. If you do not file an answer by the deadline, the Plaintiff can ask the court to enter a default judgment against you. Talk to a lawyer if you do not know when your deadline is.
- Keep a copy of your answer for your records.
- Send a copy to the Plaintiff's lawyer or to the Plaintiff if s/he is not represented by a lawyer.

1. Defendant's Information

My name is _____. I am the Defendant in this Case.
(PRINT your full name.)

The last three numbers of my driver's license number are _____. My driver's license was issued in (State) _____.

Or ☐ I do not have a driver's license number.

The last three numbers of my social security number are _____.

Or ☐ I do not have a social security number.

2. General Denial

Texas Rules of Civil Procedure Rule 92

I enter a general denial.

I request notice of all hearings in this case.

3. Specific Pleas Made Under Penalty of Perjury

Read Texas Rules of Civil Procedure Rule 93 for a list of specific pleas that must be verified **or** made under penalty of perjury. Ask a lawyer which specific pleas apply to your case.

I make the following specific pleas under penalty of perjury:

4. Affirmative Defenses

Read Texas Rules of Civil Procedure Rule 94 for a list of affirmative defenses. Ask a lawyer which affirmative defenses apply to your case.

Note: An affirmative defense is an independent reason that the Plaintiff should not win the lawsuit. If an affirmative defense is successful you could win the lawsuit, even if what the Plaintiff says is true. If you file an answer and do not claim an affirmative defense, you may forever give up that defense.

I claim the affirmative defenses checked below:

- | | | |
|--|---|---|
| <input type="checkbox"/> accord and satisfaction | <input type="checkbox"/> estoppel | <input type="checkbox"/> license |
| <input type="checkbox"/> arbitration and award | <input type="checkbox"/> failure of consideration | <input type="checkbox"/> release |
| <input type="checkbox"/> assumption of risk | <input type="checkbox"/> fraud | <input type="checkbox"/> res judicata |
| <input type="checkbox"/> contributory negligence | <input type="checkbox"/> illegality | <input type="checkbox"/> statute of frauds |
| <input type="checkbox"/> discharge in bankruptcy | <input type="checkbox"/> injury to fellow servant | <input type="checkbox"/> statute of limitations |
| <input type="checkbox"/> duress | <input type="checkbox"/> laches | <input type="checkbox"/> waiver |

- ☐ I already paid the debt sued for. I paid \$ _____ to _____
on _____ by _____.
(date) (check, cash, etc.)

Write any other details regarding payment of the debt here:


- ☐ I also claim these additional affirmative defenses:

I reserve the right to file an *Amended Defendant's Answer* with the Court to plead additional verified pleas, affirmative defenses and claims, cross-claims or third-party claims, as applicable, after further investigation and discovery.

5. Request for Judgment

I ask that Plaintiff take nothing from this lawsuit. I ask for costs of court. I ask for such other and further relief, at law or in equity, to which I may be justly entitled.

Respectfully submitted,

	
_____ <i>Defendant's Signature</i>	_____ <i>Date</i>
_____ <i>Defendant's Printed Name</i>	_____ <i>Phone</i>
_____ <i>Mailing Address</i>	<i>City</i> _____ <i>State</i> _____ <i>Zip</i> _____
<i>Email:</i> _____	<i>Fax # (if available)</i> _____

I understand that I must let the Court, the Plaintiff's lawyer (or the Plaintiff if the Plaintiff does not have a lawyer), and any other party or lawyer in this case know in writing if my mailing address or email address changes during this case. If I don't, any notices about this case will be sent to me at the mailing address or email address on this form.

6. Unsworn Declaration Made Under Penalty of Perjury

I make this unsworn declaration under penalty of perjury in place of verification as allowed by Texas Civil Practices and Remedies Code Section 132.001.


My name is: _____
First Middle Last

My date of birth is: ____/____/____.
Month Day Year

My address is: _____
Street Address City State Zip Code Country

I declare **under penalty of perjury** that: 1) I am the Defendant in this case, 2) I have read this *Defendant's Answer*, and 3) the statements in this *Defendant's Answer* are within my personal knowledge and are true and correct. I understand that it is a crime to lie on this form.

Formally signed **under penalty of perjury** in _____ County, _____ State,
County
on this date: ____/____/____.
Month Day Year



Defendant's Signature

7. Certificate of Service

I certify that a copy of this document was delivered to the Plaintiff's lawyer or the Plaintiff (if the Plaintiff does not have a lawyer) on the same day this document was filed with (turned in to) the Court as follows: *(Check one.)*

- ☐ through the electronic file manager if this document is being filed electronically
- ☐ by certified mail, return receipt requested
- ☐ by fax, to fax # _____
- ☐ by personal delivery
- ☐ by email to this email address: _____



Defendant's Signature

Date