

<p style="text-align: center;">_____ Court of the _____ of New York</p> <p>County of _____</p> <p style="text-align: center;">Plaintiff(s),</p> <p style="text-align: center;">-against-</p> <p style="text-align: center;">Defendant(s)</p>	<p>Index Number _____ - ___/</p> <p><b>WRITTEN ANSWER</b></p> <p><b>AUTO LOAN TRANSACTION</b></p>
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Defendant \_\_\_\_\_ answer(s) the Complaint as follows (cites are to federal or NYS laws)(check all that apply)

**Factual allegations (if any) set forth on pages 3 et seq and are incorporated by reference herein.**

**GENERAL DENIAL:**

1. \_\_\_ I deny the allegations in the Complaint.

**SERVICE:**

2. \_\_\_ I did not receive a copy of the Summons and Complaint.

3. \_\_\_ I received the Summons and Complaint, but service was not correct as required by law.

**DEFENSES:**

4. \_\_\_ Plaintiff lacks standing. (I do not have a business relationship with Plaintiff).

5. \_\_\_ Statute of limitations (The time has passed to sue on this debt). 4 years. UCC 2-725.

6. \_\_\_ a. NYC DCA shows no record of Plaintiff having a license to collect debt. NYC Code 20-489, 20-490.

\_\_\_ b. Plaintiff does not allege its license number as a debt collector. CPLR 3015(e).

7. \_\_\_ I do not owe this debt because:

[ ] a. I did not incur this debt. I am a victim of identity theft or mistaken identity.

[ ] b. I have paid all or part of the alleged debt.

[ ] c. I dispute the amount of the debt.

[ ] d. This debt was discharged in bankruptcy.

[ ] e. Other \_\_\_\_\_ .

8. \_\_\_ After repossessing the car, Plaintiff breached its duties under the law when it:

[ ] a. failed to give me, personally or by registered or certified mail, a timely (w/in 24 hrs of repo) Notice of Repossession (name & address of reposessor). Veh.Traf.L. 425.

[ ] b. failed to send me a Notice Before Disposition of Collateral ("Notice of Disposition"). UCC 9-611(b).

[ ] c. failed to send me an adequate and timely Notice Before Disposition. UCC 9-614, 613; UCC 9-612).

[ ] d. failed to send me a Notice of Redemption Rights. Gen.Oblig.L. 7-401(2), Pers.Prop.L. 316.

[ ] e. failed to send me an adequate and timely (within 72 hours of repossession) Notice of Redemption Rights. Gen.Oblig.L. 7-401(2), Pers.Prop.L. 316.

[ ] f. failed to sell the collateral (car) at a commercially reasonable price. UCC 9-607(c), 9-610(b), 9-627.

[ ] g. failed to send me an Explanation of Calculation of Deficiency. UCC 9-615(d), 9-616.

[ ] h. sent me an inadequate and/or untimely (not sent before or when demanding payment of deficiency). Explanation of Calculation of Deficiency. UCC 9-616.

9. \_\_\_ Unjust enrichment (the amount demanded is excessive compared with the original debt).

10. \_\_\_ Violation of the duty of good faith. UCC 1-304.

11. \_\_\_ Unconscionability (the contract or a provision(s) of it is unfair). UCC 2-302.

12. \_\_\_ Laches (plaintiff has excessively delayed in bringing this lawsuit to my disadvantage).

13. \_\_\_ Defendant is in the military.

14. \_\_\_ Other \_\_\_\_\_ .

- Continued on page 2 -

**ADDITIONAL DEFENSES BASED ON THOSE DEFENDANT COULD RAISE AGAINST SELLER, ALLOWED AGAINST PLAINTIFF AS HOLDER OF RETAIL INSTALLMENT CONTRACT ("RIC")** by RIC ¶ \_\_\_ under 16 CFR 433.2 (FTC Holder Rule) & under Pers.Prop.L. 302(9).

15. \_\_\_ NYC DCA shows no record of the seller having a license as a second hand auto dealer N.Y.C. Code 20-265.

16. \_\_\_ Seller engaged in false and/or deceptive advertising. Gen.Bus.L. 349 & 350.

17. \_\_\_ In  **selling** to me and/or  **financing the sale** of the car, the Seller

a. engaged in **deceptive** acts and/or practices. Gen. Bus. L. 349.

b. engaged in **fraud and/or misrepresentation**.

c. violated the **duty of good faith**. NY UCC 1-304.

d. induced me into a contract that is or has a provision(s) that is/are **unconscionable**. UCC 2-302.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ [ ] cont'd on Page 3.

18. \_\_\_ In selling me a car in the **condition of the car** financed, the Seller:

a. breached implied warranty of merchantability. NY UCC 2-314(1) and (2)(c)&(f).

b. breached express warranty required by

the Certificate of Compliance with Veh. Traf. L. and of Roadworthiness. Veh. Traf. L. 417.

Used Car "Lemon Law". Gen. Bus. L. 198-b.

New Car "Lemon Law". Gen. Bus. L. 198-a.

c. induced me into a contract that is or has a provision(s) that is/are unconscionable. UCC 2-302.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ [ ] cont'd on Page 3.

19. \_\_\_ Violation of the duty of good faith. UCC 1-304.

20. \_\_\_ Unconscionability (the contract or a provision(s) of it is unfair). UCC 2-302.

21. \_\_\_ Other \_\_\_\_\_ .

**OTHER**

22. \_\_\_ My only source of income is \_\_\_\_\_, which is exempt from collection.

**COUNTERCLAIM(S):**The unrepresented defendant serves this Answer without prejudice to her rights to proceed to amend his or her Answer, including but not limited to proceeding to amend to add counterclaims.

**VERIFICATION**

State of New York, County of \_\_\_\_\_ ss:

\_\_\_\_\_, being duly sworn, deposes and says: I have read the Answer,

(initial or cross outs) including Factual Allegations on attached pp 3-\_\_\_ which are incorporated herein, and know the contents to be true from my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

Sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary/Court Employee

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Defendant's address

This case is scheduled to appear on the calendar as follows:

Date: \_\_\_\_\_ Part: \_\_\_\_\_ Room: \_\_\_\_\_ Time: \_\_\_\_\_ Both sides notified \_\_\_\_\_

This document was prepared with the assistance of \_\_\_\_\_ at \_\_\_\_\_ CLARO.

