

HOW TO FILE AN IDENTITY THEFT AFFIDAVIT (CREDIT CARD OR DEBT BUYER COLLECTION ACTION)

NOTE: If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

Who can file an *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*?

Anyone who is sued by a credit card company or a debt buyer and is not responsible for the debt that is the subject of the lawsuit because of identity theft.

What is an *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*?

An *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)* is an official way to tell the other party and the court that you were a victim of identity theft. It also states that you should not be responsible for paying the debt. Filling out the forms requires the other party to produce additional information showing that you are the person responsible for the debt.

When should I file the *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*?

You should file the *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)* as soon as you identify that the debt you are being sued for is not your debt. This may be at the same time you file your appearance, or later on in the lawsuit once you discover that the debt is not yours.

What forms do I need for the *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*?

- ***Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)***: This form tells the court and the plaintiff that you are not responsible for the debt because of identity theft.
- **Illinois Attorney General Identity Theft Affidavit**: This form tells the plaintiff specific details about you and your personal information, including details about how and when you believe your identity was stolen, and if a police report was filed.
- **NOTE:** The email address (if you have one) and mailing address you put on the *Affidavit* is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

Not

Where can I find the forms I need?

- You can find the *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)* and an *Appearance* (if needed) at: ilcourts.info/forms.
- You can find the Illinois Attorney General Identity Theft Affidavit at: illinoisattorneygeneral.gov/Page-Attachments/ID_Theft_Affidavit_Instructions_and_Form.pdf.

Does it cost to file an *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*?

No.

What do I do after I fill out the *Identity Theft Affidavit (Credit Card or Debt Buyer Action)*?

Step 1: File the *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)* with the Circuit Clerk in the county where the court case is filed.

- You must file the *Identity Theft Affidavit* with the trial court by the filing deadline that applies to your case.
- There may be fees to file your forms. Contact your Circuit Clerk's Office for more information: ilcourts.info/CircuitClerks.

E-filing:

- After you fill out your court forms, file them with the Circuit Clerk. This is done by electronic filing, called 'e-filing'. You do not have to e-file if:
 - you qualify for an exemption (see "Not E-Filing" below) or
 - your case involves a criminal matter.
- Most people e-file their forms using Odyssey eFileIL at ilcourts.info/efile.
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at ilcourts.info/EfileHowTo. E-filing is easier on a computer. It may not work on a cell phone or tablet.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerks' office. These places offer public computers where you can e-file your forms.
 - You can bring your forms on paper or saved on a flash drive. The public computer will have a scanner where you can turn your paper forms into electronic files.
 - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.

Not E-filing

- Some people are not required to e-file, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
 - Inmates in prison or jail who do not have a lawyer.
 - People with a disability that keeps them from e-filing.
- You may also qualify for an exemption from e-filing if you:
 - Do not have Internet or computer access in your home, and it is hard for you to travel.
 - Have trouble reading, writing, or speaking English.
 - Are filing documents in a sensitive case, such as an order of protection.
 - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
- To ask for an exemption from e-filing, use the form at ilcourts.info/ExemptionCircuit. If you cannot print this form, then ask for it at your local courthouse.
 - File your *Certification for Exemption from E-Filing* form with your other court forms at the Circuit Clerk's office or by mail.
 - Bring or send your signed court forms and at least two copies of your forms to the Circuit Clerk's office. Ask them to stamp your copies and return them to you.
 - If you need to make copies of your forms, you can do that at the Circuit Clerk's office. They may charge you to make copies.
- If you mail your court forms to the Circuit Clerk's office, include a stamped envelope addressed to you. The Circuit Clerk will file your forms then send your copies back to you in the envelope.

NOTE: Do not file the Illinois General Identity Theft Affidavit with the Circuit Clerk because it contains personal information that should not be made public.

Step 2: Send a copy of your *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*, Illinois Attorney General Identity Theft Affidavit, and any other required documents to the other party.

- You must send your *Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action)*, Illinois Attorney General Identity Theft Affidavit, and any other required documents to the other parties in the case. If a party has a lawyer, send the forms to the lawyer.
- If you and the person you're sending the *Affidavit* to have an email address, you must send it by email or by notification through the e-filing system. If you or the person you're sending the *Affidavit* to does not have an email address, you may give it to the other

- parties by personal hand delivery, mail, or third-party commercial carrier (for example, FedEx or UPS).
- Complete the *Proof of Delivery* with information to show how you sent the forms to each party.
- If a party has a lawyer, send the forms to the lawyer.
- You may send forms to the other parties by personal hand delivery, by mail, third-party commercial carrier (for example, FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider.
- You may e-mail your form to a party if they have listed their e-mail address on a court document. Complete the *Proof of Delivery* with information to show how you sent the forms to each party.