

I've Been Sued for a Debt. What Will Happen When I Go to Court?

I RECEIVED COURT PAPERS AND WENT TO COURT AND RESPONDED. I NOW HAVE TO GO BACK TO COURT ON A SPECIFIC DATE. WHAT WILL HAPPEN WHEN I GET THERE?

In most cases, you will get to your assigned room and wait for someone from the court staff to call the names of the cases. **MAKE SURE TO GO ON THE ASSIGNED DATE AND TO STAY IN THE ROOM** until your presence there is noted. If you do not, a "default" may be taken against you, which means you automatically lose. When your case is called, you must speak out loud to let the person know that you are present.

AFTER ALL OF THE CASES ARE CALLED, WHAT DO I DO?

The person calling your case might tell you to talk to someone in the hallway. Or someone might call your name or come up to you to talk about your case. **That person is the lawyer representing the other side!** The lawyer will try to ask you lots of questions and pressure you to make a payment agreement on that day. **You do NOT have to speak with that person.** If you want to work out an agreement to pay or "settle the case," tell the lawyer that you will only do it with the "Court Attorney." The Court Attorney works for the judge and can help you negotiate a settlement.

WHAT IF I CAN'T AFFORD TO OR DON'T WANT TO MAKE A PAYMENT AGREEMENT? WHAT DO I DO?

The attorney on the other side will try to pressure you to make a payment agreement. You do NOT have to agree. Your other option is to get another date to come to court for a trial. You should not be afraid to have a trial. It is usually better to have a trial than to enter into an agreement you cannot afford or an agreement to pay a debt you do not owe. If this is the case, **INSIST on a TRIAL DATE.** The attorney on the other side will try to "adjourn" the case. This means that you will have to waste another day and come back to Court another date to do the same thing. Make clear to the "Court Attorney" that you want to come back for a trial and NOT for another settlement date.

I THINK I WANT TO MAKE A PAYMENT AGREEMENT TO END OR "SETTLE" THE CASE. SHOULD I DO IT?

Because everybody's case is different, there is no "one size fits all" answer to this question. While settlement is appropriate for some people, for other people settlement is the wrong choice. Here are a few things to keep in mind:

- 1) **You cannot be forced to settle the case.** The choice is entirely up to you. The attorney from the other side may try to intimidate you. Stand your ground.
- 2) **If your only income consists of payments from the government** (e.g. Social Security, SSI, Veteran's benefits, unemployment benefits, public assistance, etc.), **then your money is probably exempt from collection.** In that case settlement is probably not for you because the creditor cannot legally take your money even if you lose your case. This means that even if the creditors sue you and get a judgment against you, they are not legally allowed to touch your exempt income. See the list below to figure out if your money is exempt.
- 3) **Be prepared with an amount you would be able to pay.** If the creditor will not agree to an amount you can afford, you should not settle the case! Insist on an amount you can afford, or go to trial.
- 4) **Insist on seeing the "Court Attorney" to work out the agreement.** It is best to have a third person present.

WHAT MONEY IS EXEMPT FROM COLLECTION?

Below is a partial list of monies that generally are exempt from collection or garnishment:

- Veterans Benefits (including Survivor's Benefits)
- Wages of SSI and public assistance recipients
- Public or Private Pensions
- Social Security Disability Benefits (SSD)
- Unemployment Benefits
- Supplemental Security Income (SSI)
- Public School Teacher Benefits
- 90% of your wages
- Public Assistance
- Workers Compensation Benefits
- Social Security Benefits
- Child Support
- Maintenance (Alimony)
- Railroad Retirement benefits
- Some Insurance Benefits
- Life Insurance Policy

Note: There are exceptions to the general rule that the above benefits are exempt from garnishment: some exempt funds may be garnished for purposes of paying child support or federal debts, including student loans. If you owe these kinds of debts, you should contact an attorney to find out how these debts may affect your benefits.