

DEBT COLLECTION: What Happens If I Get Sued



Who We Are

We advocate with and for Marylanders experiencing poverty to achieve equity and social justice through free civil legal services, community collaboration, and systems change.

Know your rights

This brochure contains general information about your rights, but it is not meant to be legal advice. We make every effort to keep this information current. However, the law sometimes changes. If you want information about your specific situation, or if you have a pending legal case, you should contact Maryland Legal Aid or another attorney.

Who should read this brochure?

This brochure is for people in Maryland with **unsecured** consumer debt who want to know what happens if they get sued. **Unsecured** consumer debt includes most credit cards, medical bills, and personal loans.

The information in this brochure does not apply to **secured** debts, such as mortgages or car loans, debts over \$30,000, debts owed to the government, such as taxes or student loans, child support debts, or court ordered restitution. If you are sued for these types of debts, you should contact Maryland Legal Aid or another attorney for advice.

A Lawsuit is Filed

How will I know I've been sued?

You will receive a **Complaint** and **Summons**, including a **Notice of Intention to Defend**, from the court.

- The Complaint tells you who is suing you, the reason you are being sued, and how much the person or company who is suing you claims you owe. The person who sues you is called the **Plaintiff**.
- The Summons is usually attached to the front of the Complaint form. It tells you when and where your trial will be held.
- The Notice of Intention to Defend is the form you use to tell the court you want to attend the trial and tell your side of the story.

The Notice of Intention to Defend is usually the bottom half of the Summons, but sometimes it is on a separate page.

What should I do after I receive the Complaint and Summons?

If you want to have a hearing in front of a judge, you should send or take the Notice of Intention to Defend to the court. The Notice is due no later than 15 days after you receive the summons, although courts often accept it later. You don't need a lawyer to file it. If you don't agree you owe money to the plaintiff or you disagree about the amount owed, write that on the Notice of Intention to Defend. Even if you think you owe the money, or if you are not sure if you owe the money, you are entitled to make the plaintiff prove its case against you.

If you agree you owe the money, you don't have to file the Notice of Intention to Defend and you don't have to appear in court for the trial. If you don't go to court for the trial, the judge will most likely decide that the plaintiff wins, and will issue a Judgment for the plaintiff. A judgment is a final court order that states whether you owe money to the plaintiff and how much you owe. You can't be arrested or jailed for not going to this type of trial.

What happens after I file the Notice of Intention to Defend?

- You may receive a notice from the court stating that your trial date has changed. Pay close attention to every paper you receive from the court.
- The plaintiff may send you a list of questions called Interrogatories. You **MUST** answer them in writing and send them to the plaintiff. If you do not answer the interrogatories fully and on time, the judge may not let you tell your side of the story and may enter a judgment for the plaintiff.
- In some counties, the court may tell you to come to court for a **settlement conference**. At the settlement conference, the attorney for the plaintiff will talk to you about settling the case, usually by having you agree to a payment plan. Sometimes the plaintiff will agree to a payment plan for less than the amount for which you were sued. You don't have to settle—you have the right to a trial.

The Trial

What happens when I go to court?

If you didn't file a Notice of Intention to Defend, you can still go to court. The judge may postpone the trial until a later date to allow both sides to prepare.

If you filed a Notice of Intention to Defend, you will have the opportunity for a trial that day. Before the trial, the plaintiff may try to get you to settle the case by agreeing to a payment plan. REMEMBER: You do not have to agree to a payment plan and you have a right to a trial. No one, not even the judge, can require you to agree to a payment plan. Don't let the plaintiff pressure you into agreeing to a payment plan that you can't afford.

What happens at the trial?

The plaintiff will try to prove you owe the money, and you can tell the judge why you don't think you owe it. The plaintiff first needs to present evidence that you owe the debt. If you don't owe the debt, or the exact amount that the plaintiff claims that you owe, you should tell that to the judge. If you have any evidence, such as receipts for payments you made, take three copies with you to court and show your evidence to the judge. At the end of the trial, if the plaintiff wins, the judge will enter a judgment against you. If you win, the judge will enter "judgment for the defendant" (that's you).

What does it mean if I get a judgment against me?

A judgment against you is the decision by the judge that you owe money to the plaintiff. If you do not appeal, the judgment is final and the case is over. After the judgment is final, you can't argue that you don't owe the money.

What if I disagree with the judge's decision?

You have the right to file an appeal of the judge's decision. You may also file a motion asking the judge to reconsider. The time for a Motion to Reconsider or Appeal is 30 days, so you should seek legal advice immediately.

After A Judgment is Entered

What if I don't pay the judgment?

If you don't pay the judgment, the plaintiff must file more papers in court to collect the money. The plaintiff may try to scare you into paying by claiming that it will take your property. However, everyone can protect at least \$7,000 worth of property and \$500 in any bank account automatically. If you have very little income or property, the plaintiff will not be able to take anything from you.

Can a creditor get information about my income and property?

After a judgment is entered against you, the plaintiff, who is now called the judgment creditor, is entitled to find out whether you have any income or property. To find out this information the creditor may:

- **Send you a list of questions** called Interrogatories. You must answer the questions, send the answers to the creditor, and notify the court, in writing, that you answered the interrogatories.
- **Require you to come to court and answer questions** about your income and property. This is called an "Examination in Aid of Enforcement" or an "oral examination." If you receive an order from the court about an oral examination, **you must go to court** on that date and time, or the judge can issue a "show cause" order. The order will tell you what papers

to bring to court so you can show your income and property. These papers may include your pay stubs, bank statements, the title to your car, etc. If you don't have all the papers the creditor asks for, don't worry. Simply take the papers you do have to court.

Can a creditor take my wages?

If a creditor has a judgment against you, it can ask the court to order your employer to "garnish" your wages. When wages are garnished, your employer pays a portion of your wages directly to the creditor.

Your wages cannot be garnished if your disposable wages are less than 30 times the Maryland State minimum hourly wage per week.* In any event, no more than 25% of your disposable wages can be garnished. This means that you will receive at least 75% of your disposable wages. Your disposable wages are your wages after subtracting the required deductions for federal, state, and local taxes, Social Security, unemployment insurance, state employee retirement systems, and health insurance.

* This means your wages can't be garnished if you make less than \$217.50 per week.

What does it mean for property or income to be “exempt”?

When property or income is exempt, that means creditors can’t legally take it. Sometimes you need to tell the court that the property is exempt by filing a motion with the court.

Can a creditor take my Social Security or government assistance?

No. Government benefits are protected from creditors. This means creditors can’t legally take them. Even if the funds have been deposited into a bank account, they are protected, or “exempt.” Some examples of different types of income that are protected from creditors are:

- Social Security benefits;
- Supplemental Security Income (SSI);
- Social Security Disability Income (SSDI);
- Most retirement or pension plans;
- Most deferred benefit annuities;
- Most private disability benefits;
- Veterans’ benefits of any kind;
- Workers’ Compensation;
- Unemployment benefits;
- Life insurance proceeds—this does not include inheritance;
- Public assistance of any kind, including Temporary Cash Assistance.

Can creditors take my personal property, like my furniture or clothes?

If a creditor has a judgment against you, it can ask the court to have the sheriff take or “levy” some of your personal property. Then the creditor can ask that the sheriff sell this property and pay the money from that sale to the creditor. It is very unusual for a creditor to try to sell your personal property because it costs more to sell it than the property is worth.

If a creditor tries to sell your property, you can protect, or exempt, at least \$7,000 worth of property by filing a motion with the court. The value of your property is the “fair market value,” which is the money you could get for the property, in its current condition, if you sold it at an estate or yard sale. It is NOT what you paid for the property.

What if I own a house?

If a creditor has a judgment against you, and you own a house or other real estate, the creditor can get a lien on the property unless it is a medical debt for a judgment outside of Baltimore City. Once a creditor gets the lien, it can take steps to sell your house, but this is rare. You will get a notice from the court if the creditor wants to sell your house. Most creditors will not try to sell your house because it is expensive for them to do so and they know that they will get paid when you sell your house. HOAs are the only general exception to this.

What if I receive child support or alimony?

Child support is protected from creditors and alimony is protected up to the same amount as wages.

Can the creditor take the money in my bank account?

If a creditor has a judgment against you, it can ask the court for the money in your bank account. If this happens, the bank may freeze your account and pay the money to the creditor. However, if the money in your account is from Social Security, SSI, or Veterans' benefits which are directly deposited into the account, two months worth of benefits are automatically protected and will not be frozen or turned over to your creditor. In addition, you can protect up to \$6,000 and certain other government or retirement benefits by filing a motion with the court. Also, \$500 total is protected in Debtor's bank accounts without filing a Motion.

What if my bank account gets frozen? How can I protect my property in court?

If a creditor files papers with the court to try to take the money in your bank account or other property, you may need to file a motion with the court stating that you want to keep the property because it is exempt. You do this by filing a form called **Motion for Release of Property From Levy/Garnishment or to Exempt Property From Execution**. (You can get the form from the District Court or online at www.courts.state.md.us/district. It is form DC/CV 36.) To complete the motion, fill in the blanks and check off the reason the property is exempt. You should file this motion right away. Some exemptions have time limits, so file this motion no later than 30 days after the date of the garnishment to get the most protection. You should contact Maryland Legal Aid or another lawyer if you need help.

Common Terms You Should Know

Complaint:

The form used to start a lawsuit.

Creditor:

The person or company to whom you owe money.

Defendant:

The person who gets sued.

Examination in Aid of Enforcement:

A court hearing in which you answer questions from the creditor about your income and property.

Exempt or Exemptions:

Property or income that creditors cannot legally take or that you can protect by filing a motion with the court.

Garnishment:

An action by a creditor to take some of your wages or money in your bank account.

Interrogatories:

A list of questions from the creditor that you must answer.

Notice of Intention to Defend:

The form to tell the court you want to attend the trial and tell your side of the story.

Judgment:

A final court order that states whether you owe money to a creditor and how much you owe.

Plaintiff:

The person or company who sues you; also known as the creditor.

Summons:

The form that says when and where the trial will be held.

Where can I get help?

Contact your local Maryland Legal Aid office (listed on the back) if you need legal advice. For cases filed in District Court, you may contact the District Court Self-Help Resource Center at (410) 260-1392 or mdcourts.gov/district/selfhelpcenter/home.html.

Maryland Legal Aid Offices

Centralized Intake: 1-888-465-2468
is now serving all jurisdictions:

Offices

Allegany/Garrett

138 Baltimore Street
Suite 204
Cumberland, MD 21502

Anne Arundel/Howard

2024 West Street
Suite 204
Annapolis, MD 21401
3451 Court House Drive
2nd Floor
Ellicott City, MD 21043

Baltimore City

500 E. Lexington Street
Baltimore, MD 21202

Baltimore County

215 Washington Avenue
Suite 305
Towson, MD 21204

Cecil/Harford

103 S. Hickory Avenue
Bel Air, MD 21014

Lower Eastern Shore Dorchester, Somerset, Wicomico, Worcester

101 Broad Street,
Salisbury, MD 21801

Midwestern Maryland Carroll, Frederick, Washington

22 S. Market Street
Suite 11
Frederick, MD 21701

Montgomery County

600 Jefferson Plaza
Suite 430
Rockville, MD 20852

Prince George's County

8401 Corporate Drive
Suite 200
Landover, MD 20785

Southern Maryland Calvert, Charles, St. Mary's

15045 Burnt Store Road
Hughesville, MD 20637

Upper Eastern Shore Caroline, Kent, Queen Anne's, Talbot

106 N. Washington Street
Suite 101
Easton, MD 21601

TTY Users: Call Maryland Relay, Dial 7-1-1

www.mdlab.org

For more information

www.peoples-law.org

For self-help legal information and
community resources

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