

Being Sued On a Credit Card or Other Debt

Do I have to hire a lawyer?

No. It is a good idea to hire a lawyer if you can because debt collection cases can be complicated, but you do not *have* to hire one. You can call the Alabama State Bar Lawyer Referral Service if you need help finding lawyer.

You may want to represent yourself if you cannot pay to hire a lawyer. You can also call Legal Services Alabama or the Volunteer Lawyers Program that serves your area if you think you qualify for their services.

What do I do if I received a notice that I'm being sued?

Once you receive a Statement of Claim (Complaint), you need to file an **Answer to Complaint, Form PS-19**. If the Complaint was filed in District or Small Claims court, you have 14 days from the date you were served to file the Answer to Complaint. If the Complaint was filed in Circuit Court, you have 30 days to file the Answer to Complaint. The Complaint will tell you the type of court where the claim was filed.

How do I file an answer?

Carefully read the instructions on the Answer to Complaint, and fill it out. Keep a copy for yourself. Then mail or have someone deliver a copy to the person suing you (called the Plaintiff) or the Plaintiff's lawyer at the address listed on the Complaint. Fill out the Certificate of Service at the bottom of the original Answer to Complaint. Mail or deliver the original Answer to Complaint to the court clerk. The clerk must receive the Answer to Complaint with the completed Certificate of Service by the deadline.

When should I file an Answer to Complaint?

You need to file an Answer to Complaint if you disagree with any part of the Plaintiff's claim. Some reasons to file an answer are:

- You think you owe less money than the Complaint says.
- You would like to work out an agreement, and you want more time.
- You think you were served (given) the Complaint improperly.
- You think the Complaint was filed past the legal deadline, which is called the statute of limitations.
- You think the Plaintiff cannot prove the debt, or prove that s/he owns the debt. The Plaintiff may have trouble providing the right paperwork if the debt has been moved between banks or collection agencies. You may choose to make the Plaintiff prove the debt in court if you think there is a chance that the paperwork could be missing or that the Plaintiff will not bring a witness to trial.

Warning! The Plaintiff's lawyer can call you as a witness to try to prove the debt.

What will happen if I don't file an Answer to Complaint?

The Court could enter a Default Judgment against you, which means you might have to pay the money the Plaintiff says you owe without having a chance to tell your side of the story.

Can I try to work it out with the Plaintiff instead of going to court?

Yes. You should call the Plaintiff or the Plaintiff's lawyer to discuss your options if you think you can pay part of the debt or you want to try to work out a payment plan with the Plaintiff. If you still disagree with the Plaintiff, you may want to go to court and have the judge decide.

When do I go to court?

After you file the Answer, a notice of your court date will be mailed to you. For more information about going to court please see [Getting Ready for Court](#).

What happens if I do not show up in court?

You should go to court on your court date. If you do not go, the Plaintiff can ask for a Default Judgment. Sometimes when you show up for court, you find out that your court date has changed. If it changes, you must show up again on your new court date.

What happens in court?

You will be allowed to present your evidence and argue your case. You should bring any documents or witnesses that support your case. You are allowed to testify, or you can call your witnesses to testify. You can also ask the Plaintiff's witnesses questions. Please see [Being Sued in Small Claims Court in Alabama](#) for more information on how to prepare for court and what to expect once you get there.

What happens if I win?

You will not have to pay the Plaintiff, or you will only have to pay the Plaintiff the amount that the judge says you have to pay.

What happens if the Plaintiff wins?

There will be a judgment entered against you in favor of the Plaintiff (now called the judgment creditor). If you do not pay voluntarily, the judgment creditor can file to have your paycheck or bank account garnished or some of your possessions sold to pay the debt.

If the judgment creditor garnishes your bank account, you can file the [Request to Stop Garnishment of Bank Account, Form PS-13](#) if you fall within its exemptions. If the judgment creditor garnishes your wages and your take-home pay is less than \$1,000 for your pay period, you can file a [Declaration and Claim of Exemptions for Wages, Form PS-20](#).

You can appeal the decision if you think your trial was not fair or you think you still have a defense. You must appeal within 14 days for Small Claims or District court and within 42 days for Circuit court. This can be complicated, and you should talk to a lawyer.

Contact Information

Alabama State Bar Lawyer Referral Service - Phone: 1-800-392-5660 Website: www.alabar.org/lrs

Legal Services Alabama – 1-866-456-4995 Website: www.legalservicesalabama.org

Alabama State Bar Volunteer Lawyers Program – 1-888-857-8571 Website: www.alabar.org/members/vlp.cfm

Madison County Volunteer Lawyers Program – Phone: (256) 539-2275 Website: www.vlpmadisoncounty.org

South Alabama Volunteer Lawyers Program: - Phone: (251) 438-1102 Website: www.svip.org

Birmingham Bar Volunteer Lawyers Program – Phone: (205) 250-5198 Website: www.vlpbirmingham.org