



CONSUMER RESOURCES

All laws are subject to change without notice. This information is based on Florida law only and is NOT intended to be legal advice.

Small Claims

In Florida, if you are sued for less than \$5,000.00, your case is heard in Small Claims Court. Small Claims Court is intended for people to use without an attorney, but attorneys are allowed. If you have been sued in Small Claims Court or think you may be, please read the below carefully.

What you can expect:

- Although we cannot assist you at this time, we would like to tell you what to expect now that a claim has been filed against you.
- Parties:
 - The Defendant is the person being sued (you)
 - The Plaintiff is the company suing you.
 - Sometimes you know the company you are being sued by and sometimes you don't. It is not uncommon to be sued by a company you have never heard of. That company will say that they bought your debt from the original creditor.
 - The Plaintiff is saying that it is the company you made an agreement with or that it has "bought" your debt from that original company.
 - This company will argue that you owe money to it.

Pretrial Hearing

- When you are served with the lawsuit, the papers will have a date on them for your "Mediation/PreTrial Conference" date and time.
- You **MUST** attend this hearing. If you do not attend, you will automatically lose the case.
- When attending the Hearing, be certain to dress appropriately, be on time, and show respect for the Judge and the Court.
- At the pretrial hearing you will be called by the Clerk to the front of the room.
- You will be asked by the Clerk if you "**admit**" or "**deny**" the debt in your case.
 - It is important that you understand what those options mean.
 - If you admit that you owe the debt a judgment will most likely be entered against you.
 - Admitting you owe the debt means that you agree that ALL of the information in the Plaintiff's Complaint is true.
 - If you admit, the attorney for the Plaintiff will probably want to speak to you in the hallway and tell you that the Plaintiff will send you something in the mail. What you get in the mail will probably be the final judgment.

Jacksonville Area Legal Aid is sorry it can't be of more assistance at this time. Please feel free to come again should you have other legal problems. Jacksonville Area Legal Aid wishes you the best of luck in the future.

Jacksonville Area Legal Aid
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- You can “deny” the debt if you feel you have a defense or if you feel information in the Plaintiff’s Complaint is wrong.
 - Please know, denying the debt does not mean that you are telling the Court that you never had the credit card or that you are lying to the Court.
 - If you deny it means you believe you have a defense and that you would like the opportunity to speak to the Judge.
 - If you believe that you do not owe the debt and you have a defense you should deny the debt and request a trial date where you and the other side will be able to present your arguments to the Judge.
- Some examples of possible defenses are:
 - you do not believe you owe money to the company bringing the lawsuit;
 - you believe that you do not owe the debt at all;
 - you believe that you do not owe the amount listed in the complaint;
 - you do not recognize the name of the company suing you;
 - you believe that there has been identity theft;
 - you believe that the company has waited too long to sue you (Under Florida law, the Plaintiff has to sue you within 5 years of the last use or last payment on the account);
 - or you believe that you have other defenses.
- If you deny the debt the Clerk will enter a denial on your behalf and you will be given an opportunity to speak briefly with the Judge. You do not have to present your argument at this time.

After speaking with the Judge

- After you have been given an opportunity to speak with the Judge he/she will either offer you an opportunity to “mediate” your case or set your case for trial.
 - For some Judges mediation is a mandatory step before a case is set for trial.
 - Mediation is an opportunity for you and the Plaintiff to agree upon a settlement amount if you believe you may owe the debt.
 - You are not required to reach an agreement during mediation.
 - If you do not agree at mediation, your case will be set for a trial date in the future.

Case set for trial:

- If your case is set for trial you will receive notice of the date, time, and location.
- When attending trial, be certain to dress appropriately, be on time, and show respect for the Judge and the Court.

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- Failure to appear at trial will result in a default judgment being entered against you.
- You do not have to hire an attorney to represent you at trial.
- All Florida Courts allow people to represent themselves.
 - However, it may be a good idea to attend a free, informational class to learn how to present your case at trial.
 - When you represent yourself, it is called “pro se” or “in proper person.”
- The County Court small claims procedure is designed so individuals can file their own lawsuits. The clinic will be held on the 2nd Tuesday, of every month, at 5:30 pm. in Room 505 of the Duval County Courthouse.

Small Claims Trial:

- Trial for small claims court is unlike what is portrayed on T.V.
- Trial will be held in the Judge’s chambers (office) not in an open courtroom, in private, without an audience.
 - The only other persons present will probably be the Judge, a representative for the Plaintiff, and a bailiff.
- At trial you may provide documents to the Judge you wish to offer as “proof” of your side of the story (for examples, copies of receipts or other documents).
 - Be prepared to prove your defense at trial.
- The Plaintiff must prove the allegations in the complaint.
 - If the Plaintiff can prove each element of its claim (for example, that it was your debt, the amount you owe, and that they bought it) a judgment will likely be entered against you.
 - The result will be the same as if you admit the debt (please see below).
- However, if the Plaintiff cannot prove its case, a judgment may not be entered against you and the case may be dismissed.

Judgment:

- A judgment can be entered against you as a result of the following:
 - you admit you owe the debt at the pretrial hearing;
 - you fail to appear at the pretrial hearing;
 - you fail to appear at the trial; or
 - the Judge finds that the Plaintiff has proved that you owe the debt.
- A judgment will remain in effect for 20 years.
- Please know, a judgment does not mean that you are going to jail; it is an order from the Court saying that you owe the Plaintiff money.
- There are three ways in which a judgment can be collected:
 - a lien on your home,
 - repossession of your car, and

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- garnishment of your wages or bank account.
- Plaintiff's can use one, two or all three of these methods, but they can also choose not to use any.
- In certain situations, you may have an exemption (a way out) of these collection methods.

Other assistance:

- Please keep in mind other assistance is available. Most County Courthouses have a law library.
 - You may ask the librarian to direct you to the correct Florida Statutes.
 - You may also ask the Librarian to help you find accurate forms available through the Supreme Court Approved Simplified Forms.
 - If you want to contact a private attorney, you may call the Florida Bar Lawyer referral Service at 904-399-5780. (Note: Neither the Clerk of Courts nor the Plaintiff's/Petitioner's attorney can give you legal advice.)

Things to Remember:

- Remember that court dates and response deadlines are mandatory and failure to show up for a court date or to respond on time could result in your being held in contempt of court.
- Failure to respond or appear will not make the case go away, it will most likely make things more difficult for you.
- Pay attention to any paperwork you receive from the Plaintiff or the Court and make sure you comply with any Court deadlines.

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