

What Happens Next?

Upon filing your complaint, a copy is sent to the defendant by first class mail. After approximately thirty days, if the defendant has not responded, the clerk will send you (the plaintiff) a personal service package to have the defendant personally served by the sheriff to ensure his/her receipt of the complaint.

Within 60 days from the day you file your complaint you should receive a notice from the court indicating what is happening with your case. Depending on the response of the defendant OR if the defendant has not responded at all, one of the following three things will happen:

- Default
- Settlement
- Trial

1. Default

The defendant has 20 days from receipt of the summons in which to fill out and return the answer form. If the defendant either: 1) files an acknowledgment, but fails to file an answer, or 2) fails to answer after being personally served, this constitutes what is known as a "default", and you will be notified of the default by the clerk. You will also receive instructions on how to fill out a motion and affidavit for default judgment. If you fill out and return the motion and affidavit to the court clerk within 30 days, the judge will issue a default judgment, which means you will have prevailed in your claim (see section on "What you can do to collect your money"). The default judgment cannot be for an amount greater than the original claim. If the motion and affidavit are not returned to the court clerk within 30 days, the case may be dismissed.

2. Settlement

(a) If the defendant does answer, he or she may admit that the money is owed. If the defendant agrees to pay it all at once, the court will issue a judgment of the entire amount. If the defendant offers to make weekly or monthly payments, the court will probably issue an installment judgment, stating the amount per a specific time period that must be paid to you. If you object to this, contact the court clerk and a hearing will be scheduled. At the hearing, the court will determine whether installment payments are appropriate and, if so, in what amount.

If the defendant does not contact you within a short period of time after the entry of judgment to arrange for payment, you should contact the defendant or his or her attorney if defendant is represented by counsel. If the defendant does not pay you according to the terms of the settlement, see the section entitled "What you can do to collect your money".

(b) The defendant may answer by denying the claim. If so, a hearing date will be set. However, at any time before the hearing, the defendant may contact you and offer to settle the case, perhaps for less money than you claimed. If you want to avoid the inconvenience and expense of going through a hearing, it may be worth accepting less than you sued for. Use your own judgment in negotiating with the defendant and try to arrive at a workable compromise.

The defendant may get a lawyer who might call you to discuss the case and offer you a settlement. You may feel that it would be in your best interest to hire a lawyer. This is a personal decision that only you can make, depending on your level of comfort. If you choose not to hire a lawyer, however, you should feel free to negotiate with the defendant's lawyer as you would with the defendant. There is no reason to be intimidated. If there is a trial, the judge will make sure you are not unfairly disadvantaged.

If you reach a settlement with the defendant out of court, be sure to notify the court clerk immediately. Put the settlement agreement in writing and have it signed by you and the defendant so that you will be able to prove that an agreement was reached.

3. Trial

If the defendant contests your claim and makes no acceptable offer to settle the case, the hearing will take place, and the case will be decided by the judge.