

What To Do if You Are Sued in Small Claims Court

If you are sued in small claims court, you should read this booklet so that you fully understand all the procedures.

The first thing that will happen is that you will receive the summons and a copy of the complaint by first class mail with instructions to sign an acknowledgment of receipt of the summons and complaint. You must return the signed acknowledgment to the court by the date specified in the summons. You should return the acknowledgment to the court by the date specified in the summons. Once this has been done, you are considered to have been served a copy of the complaint. If you do not sign and return the acknowledgment, it will be necessary to have a civil service officer serve the summons and complaint on you personally. In that event, you may be required to pay the expense incurred by the plaintiff for service of process.

ONCE YOU HAVE BEEN SERVED, YOU HAVE 20 DAYS FROM THE DATE YOU RECEIVED THE SUMMONS TO ANSWER THE COMPLAINT. A form and instructions for responding to the complaint will be included with the packet.

DO NOT IGNORE THE SUMMONS. If you do not answer the complaint within 20 days from the date of service, you may lose by default and you would have no choice but to pay the plaintiff the full amount of the judgment without having had the opportunity to present your side of the story to the judge. If the claim against you is greater than \$3,500.00, you have the right to request a special assignment of a judicial officer. You should make this request on or before the time of filing your answer. Upon making this request, a superior judge, a district judge, or a member of the Vermont bar will be assigned to hear the action.

DO NOT ASSUME THAT YOUR CASE IS HOPELESS EVEN IF YOU THINK YOU OWE THE MONEY DEMANDED. You may have a good defense. For example, you might owe money on an appliance that broke down the day after you purchased it. You may also have a related claim against the plaintiff, and if that claim is for \$5,000.00 or less, that matter can be decided in small claims court. This is known as a counterclaim, and you will need to pay a filing fee of \$15.00 if your counterclaim is for \$500.00 or less, or \$25.00 if your claim is for more than \$500.00. Your counterclaim must be filed at the time you file your answer to the plaintiff's complaint.

If you admit that you owe the money, check the applicable box on the answer form and make arrangements with the plaintiff for payment. You will also have to pay the court costs incurred by the plaintiff as set forth on the complaint. If you cannot pay the claim in full, contact the plaintiff and see if you can agree on paying the amount in installments. All the money that you owe should be paid directly to the plaintiff; no money should be sent to the court.

If you dispute the claim because you do not owe the money, mark the applicable box on the answer form. The clerk will set the matter for hearing, and you will receive a Notice of Hearing in the mail. It is important that you provide the court with a current address.

Remember: Whether you agree or disagree with the plaintiff, you must complete the answer form and return it to the court for filing within 20 days after receiving the summons and complaint. Many cases are lost by default due to the failure of the defendant to file a timely answer.