

Don't Be A Pushover: Responding to a Motion to Dismiss

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In [previous articles](#) I have gone over the litigation strategy of debt buying companies like [Midland Funding, LVNV, LLC, and Portfolio Recovery](#). Despite the fact that they have filed a lawsuit against you, they really don't want to fight you. Their hope is that you will do nothing to defend yourself and that they will get a default judgment against you.

So what if you put up a fight? Sometimes they will simply seek to dismiss your case. You receive the Motion to Dismiss and you are thinking that you are good to go, right? Wrong.

With Prejudice vs. Without Prejudice

If you are being sued by Midland Funding or any of the other debt buyers and you are contesting the suit, you may be surprised that at times they will simply seek to dismiss the lawsuit. The catch is they will seek to dismiss the lawsuit **without** prejudice. This means that they can refile the lawsuit at a later date if they choose to do so.

If they are wanting to dismiss case you will want it to be **with** prejudice, meaning the case cannot be filed again.

Arizona Law on Dismissal

Also it is important to understand that in Arizona the court rules state that if a person has been sued, and that person responds to the lawsuit, then the company suing that person cannot dismiss the case without the person being sued signing of on it (did you follow that?).

This means if you have been sued you shouldn't agree to it being dismissed unless Midland or whoever is suing you agrees to dismissing the case **with** prejudice.

Main point. Educate yourself on the procedure. Don't be a pushover.

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1. [Are You Being Sued by Midland Funding? Why You Should Fight Lawsuits by Debt Buyers.](#)