

I've Been Sued! Understanding the Steps that Lead to Judgment

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I have mentioned before that lately I am seeing more people come in for a [bankruptcy](#) consultation that have been sued by one of their credit card companies. Usually it is for smaller amounts, less than \$5,000. Nothing sends more panic through a person to have the process server show up and the door one evening (they always seem to drop by late at night) and get handed a lawsuit.

While receiving the lawsuit is nothing to ignore, it can help calm your nerves a little to understand the litigation process and when you can expect that your credit card will actually be able to obtain a judgment against you. Below are the steps to how a judgment is obtained in Arizona:

Step 1: You Receive the Summons and Complaint

The documents the process server has dropped off at your house likely were comprised of a Summons and Complaint. The Summons is the document that lets you know that a lawsuit has been filed against you and that you have 20 days to respond by filing a written Answer with the court.

The Complaint is the document that lets you know who is suing you and what they are alleging you have done or what amount of money they are trying to get from you. In addition to the Summons and Complaint you may get a document entitled "Certificate on Compulsory Arbitration." In Arizona certain cases are required to go through an arbitration process before they will be allowed to go to trial. Arbitration is a less formal way of resolving the dispute than trial. In Maricopa County, Arizona cases where there is less than \$50,000 in dispute must go through the compulsory arbitration process. If you receive this document it is merely alleging that the case is worth less than \$50,000 and must go through the arbitration process.

Step 2: Responding to the Complaint

If you dispute what is alleged in the Complaint, you must file a written Answer to the Complaint within 20 days from the day you received the [lawsuit](#) from the process server. If you do submit a written Answer the case will then be put on a track towards heading for trial. If you don't file a written Answer you risk getting a Default Judgment entered against you.

Step 3: Application for Entry of Default Judgment

If you do not file an written Answer to the Complaint within the 20 day period, you will likely receive another document, this time in the mail, that is entitled "Application for Entry of Default Judgment". This is the plaintiff/creditor's way of letting you know that they are now seeking to have a default judgment entered against you because you haven't responded. If you still want to submit a written Answer you must

do so within 10 days from the day the Application for Entry of Default was filed with the court. If you don't, you are well on your way to having a Default Judgment entered against you.

Step 4: Motion for Default Judgment

If the 10 days go by and you still haven't filed a written Answer to the Complaint, the next document you will receive in the mail is a Motion for Default Judgment. The Motion for Default Judgment is the plaintiff/creditor's opportunity to lay out why they are entitled to judgment and what amount they are asking for. At this point if you have not filed a written Answer you have lost your right to do so. The court will have already entered a default against you and now the judge will sign a Default Judgment that can be used to collect money from you in the form of a [wage garnishment](#) or the [garnishing of your bank accounts](#).

Step 5: Your Wages Get Garnished

Now that a judgment has been entered against you, the plaintiff/credit can take that judgment and use it to [garnish up to 25% of each of your paychecks](#) and garnish your bank accounts, taking [all but \\$150](#) of the money in your account. If you need to file [bankruptcy](#), you will want to do it prior to the garnishment.

Stopping the Lawsuit Through Bankruptcy

If you have been served with a lawsuit the filing of a [bankruptcy case](#) will [stop this process in its tracks](#). No matter what stage or step the lawsuit is in, once the bankruptcy case is filed with the court the collection case against you must stop. Even if a Default Judgment has been entered against you, it can be eliminated through a bankruptcy filing.

If you need to file bankruptcy and are having your [wages garnished](#), the bankruptcy will stop the garnishment and void the underlying judgment.

You Have Time, Just Not a Lot of It

Once you get served with a lawsuit, you don't need to panic. However you can't ignore it and expect it to go away. There is plenty of time to meet with a bankruptcy attorney, get your bankruptcy case ready to file, and file it prior to a default judgment being entered.

If you have been served with a lawsuit, I would be happy to meet with you and discuss your bankruptcy options or determine if it is a lawsuit you should contest. My bankruptcy consultations are always free. Give me a call at (480) 420-4028 or via email at john@skibalaw.com.