

Have you been sued by a creditor that says you owe them money?

Creditors will often sue you to collect on debts they say you owe them. If they get a judgment against you, they can garnish your wages, seize personal property like cars and bank accounts, and place liens on real estate that you own.

Third Party vs. Original Creditors

Look at the top of the civil summons you received above where your name is listed to find out whether you are being sued by a third party (someone who purchased the debt from an original creditor) or an original creditor (the person or company who you first owed the debt to). If the company name is one you don't recognize, then it is probably a third party. For example, if you opened a credit card with "ABC Credit," but you are being sued by "XYZ Creditors," then you can be pretty sure that it is a third party. However, if you borrowed money from "ABC Credit" and they are the ones suing you, then it is likely an original creditor lawsuit.

What is a default judgment?

This is when someone is served with a lawsuit (a civil summons is given to them by a process server or sheriff's deputy) and they fail to show up to their court date, losing by default.

How do I avoid a default judgment?

Show up to court on your court date or have an attorney appear on your behalf.

What if I don't recognize the creditor or the amount sued for is wrong?

First, you should ask the creditor for proof of the debt. They may have included attachments with the civil summons containing what they believe to be proof that you owe debt to them. If not, or if the documents are incomplete, ask the court for a reset so the creditor can provide proof.

Second, if the creditor doesn't give you proof they own the account or you don't agree with the amount the creditor sued you for, you should file a sworn denial. This is a document where you say that you dispute the claims made by the creditor. To learn more about this, see our pamphlet on sworn denials.

Third, you can ask the creditor to consider your account for hardship. If you do not own a house or any other large assets and your income is not subject to garnishment, then creditors may grant a hardship request, which means they will stop trying to collect the debt.

Don't agree to a settlement you can't afford

While creditors might pressure you by telling you that you will lose at trial, you do not have to listen to them. They will often attempt to have you accept a settlement, such as a payment plan or reduced lump sum, but you don't have to agree to anything.

Third Party Debt Collectors

What type of documents did the creditor give you? There might be something that looks like a bill of sale between the original creditor and the debt collector, which says something like "ABC Credit gives computer file 'X' to XYZ Financials." Another document they might attach is the one that creditors claim shows that they own your debt, and it usually mentions a computer file. Did they give you that file? If they didn't, you should ask their attorneys for it. If they claim they did, it is usually an incomplete version of the file, either with only your name and information on it or a partial Excel spreadsheet that has every other cell but yours blacked out. This is likely not enough to show that you owe money to them.

Often, the creditors may attempt to establish that they own your debt by attaching documents such as your billing statement and how much you owed to the original creditor. Again, this only establishes that you owe a debt; it does not establish that you owe a debt to the creditor that sued you.

Original Creditors

If you are sued by an original creditor, then the first thing that you should do is ensure that the amount they are seeking is correct. Are they seeking the original amount only or are they also seeking attorneys' fees and interest? If they are seeking more than the original amount, does the contract you signed with them allow them to do this? If you are unsure, you should ask to see a copy of the contract.

Remember, you should not agree to a payment plan if you cannot afford it. You can make a hardship request or take steps to protect your income and assets if a judgment is taken. For more information about this, see our pamphlet *Have you been sued?* and our pamphlet on garnishments.





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Toll Free: 1-800-372-8346 ext. 250

Fax: 731-423-2600



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West Tennessee Legal Services

731-423-0616

Toll Free: 1-800-372-8346

Fax: 731-423-2600

Website: www.wtls.org

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Have you
been sued
for a debt?



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WTLS EEOC Officer P.O. Box 2066 Jackson, TN 38302-2066