

WEST TENNESSEE LEGAL SERVICES

Sworn Accounts

*Have you been sued by a company that says you owe them money?
Does the court paper say it is on a "sworn account?"
Or does it have a paper attached to it called an "affidavit?"*

This booklet can help.





SWORN ACCOUNTS

HAVE YOU BEEN SUED BY A COMPANY THAT SAYS YOU OWE THEM MONEY?

AND

DOES THE COURT PAPER SAY IT IS ON A "SWORN ACCOUNT"? OR DOES IT HAVE A PAPER ATTACHED TO IT CALLED AN "AFFIDAVIT"?

<p>State of Tennessee, County of Madison To Any Lawful Officer to Execute and Return: Summons: <u>John Smith</u> To appear before the General Sessions Court on the 3rd floor of the Criminal Justice Complex at 515 South Liberty Street, Madison County, Jackson, TN on <u>January 1, 2020</u> at 9:30 a.m. then and there to answer in a civil action brought by Plaintiff(s) for: <u>ABC Credit Card Company for payment not received in the amount of \$5,123.45 together with interest and attorney fees as evidence by the Sworn Account attached hereto:</u></p>	<p>ABC Credit Card Company v. John Smith</p> <p>→ AFFIDAVIT OF DEBT AND VERIFIED BILL OF PARTICULARS</p> <p>The undersigned being first duly sworn according to the law, deposes and says that she is familiar with the policies and practices as well as the books and records, of the Plaintiff with respect to the matters stated herein and based on information and belief states as follows.</p> <p>←</p>
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What is a sworn account?

It is a lawsuit with a signed paper from the company you owe. The law lets some companies sue you without proving that you owe the debt. They just sign a paper saying they swear that you owe the money.

You have the right to ask for the paperwork that proves the debt. What good will that do? It may save you from having a judgment taken against you.

The company may have lost the paperwork. This happens most often when the debt is several years old. What if you ask for proof and the company does not have it? Then the lawsuit should be dropped.

OR

The paperwork may show that the company has waited too long to sue you. If so, you can ask the judge to dismiss the case.

What if I want to make the company prove that I owe the money? Or, what if I think I do not owe that much?

You should file a Sworn Denial with the Court Clerk's Office and go to court on your scheduled court date. A copy of a Sworn Denial is with this booklet.

The company will then have to prove how much you owe. What if they cannot prove it? Then, the company should drop the lawsuit, or the Judge should dismiss it.

Has it been over 6 years since you last paid or promised to pay? Then, the company has waited too long to sue. You should file a Sworn Denial and go to court on your scheduled court date. Tell the Judge you think the company has waited too long to sue.

WARNING! Before the hearing, the company's lawyer may ask you to promise to pay the debt.

WHAT IS THE PROCESS FOR THE SWORN DENIAL?

How do I file a Sworn Denial?

Fill out the paper that came with this booklet. Do not sign it until you can sign it in front of a notary. Can't find a notary? Then, do not sign until you go to the Court Clerk's Office. They will have a Notary. File the Sworn Denial at the Clerk's Office at the court where you were sued.

What happens after I file the Sworn Denial?

You will have to go to court on your scheduled court date. What if the case is moved to a later time? Then, you will have to go to court on the new date. You may have to tell the Judge you want the company to prove the debt.

Ask the company's lawyer for these papers:

- The contract you signed
- The contract showing everything you agreed to, like late fees and interest rates.

(Example: You signed up for a credit card because the interest rate was only 10%. The contract should say 10%.)

- All the bills they sent to you. Make sure it shows all payments you made. Make sure the late fees and interest charges are correct.

The company's lawyer will often give you some records

What if you think the lawyer didn't give you all the papers you want?

You have the right to tell the Judge. The Judge can order the lawyer to give you the papers you need.

WARNING! Before the hearing, the company's lawyer may ask you to promise to pay the debt.

You do not have to talk to their lawyers in the hall. Do not make a new promise to pay if:

- You want them to prove you owe the debt, or
- You think you do not owe that much, or
- You think it has been more than 6 years since you made a payment.

What if you make a new promise to pay? Then, the company gets 6 more years to sue.

- Lawyers often want you to agree to bigger payments than you can afford. You do not have to agree to more than you can pay. See our booklet, How to Keep your Paycheck from Being Garnished.

DO I NEED TO FILE BANKRUPTCY

What if I owe the debt and don't want to fight about it?

Then, you do not have to go to court. If you do not go, the company wins. This is called a default judgment. The company will not have to show records to prove how much you owe.

Will I be arrested if I don't show up for court?

No, but if you get a subpoena, you must go to court.



WHAT HAPPENS AFTER THE HEARING?

What is a judgment?

It is a decision by the court. Usually, it says you owe a certain amount of money to a company. Once the company has a final judgment, the company may take legal steps to collect the debt.

What should I do if the company gets a judgment against me?

File a paper with the court called a Claim of Exempt Property. This will protect your personal belongings, cars, and bank accounts. You do not need a lawyer. File it within 10 days of the court date. Find out more from our booklet, Have you been Sued?

Can they garnish my paycheck?

Maybe. Garnishing means taking money out of your paycheck before you are paid. Do you get \$217.50 a week or less after taxes are taken out? If so, then the company cannot take anything from your paycheck.

What if you get more than \$217.50 per week? Then, 10 days after the court date, the company may garnish your paycheck.

You can stop a garnishment by making a payment agreement with the company, or you can file a Slow Pay Motion with the Court. Find out more from our booklet, How to Keep your Paycheck from Being Garnished.

Can the company take my Social Security or SSI check?

Is your Social Security or SSI put on a benefits card or mailed to you each month in a check? Then, the creditor cannot take it.

Is your money in a bank account?

Then you need to file a paper with the Court Clerk to protect you money. Within 10 days after the court date, file a Claim of Exempt Property. Be sure to list your bank account on it. Find out more from our booklet, Have you been Sued?

Can I appeal if I don't agree with the judgment?

Yes, but you only have 10 days from the court date to appeal. The 10 days includes weekends and holidays. You may have to pay an appeal bond.

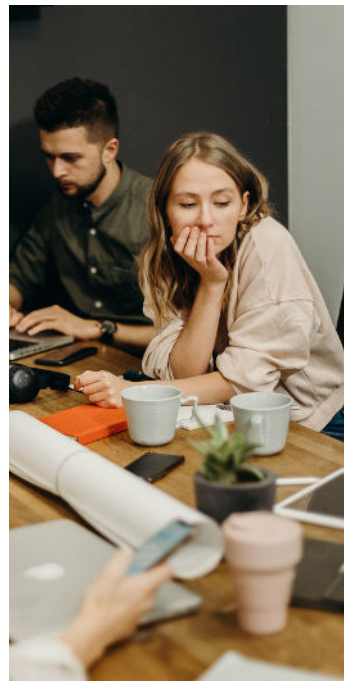
Are your income and assets very low? Then, you may be able to file a pauper's oath. If you do, you will not have to pay the appeal bond. The Court Clerk can tell you about the pauper's oath.

What happens when I appeal?

The case goes to a higher court. It gets treated like a new case. There is usually a time limit to set a date for a hearing. Most people need a lawyer for this.

What if you lose the appeal?

You will owe more court costs and may also owe lawyer fees. Usually Legal Services only does appeals if we took the case before the appeal.



For more information
or to apply for
assistance online visit
www.wtls.org

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

Fax: 731-423-2600

Email: wtls@wtls.org

Jackson Office (Main)
210 W. Main Street

Dyersburg Office
(By Appointment Only)
208 S. Church Street

Huntingdon Office
113 W. Paris Street

Selmer Office
141 N. Third Street



OTHER IMPORTANT INFORMATION

WEST TENNESSEE LEGAL SERVICES



**Contact West Tennessee Legal
Services if
you need legal help at:**

Apply online at www.wtls.org

Toll Free: 1-800-372-8346

Phone: 731-423-0616

Fax: 731-423-2600

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NOTE: This information cannot take the place of advice from a lawyer.
Each case is different and needs individual legal advice.