CaseDefender

BY CONSUMER WARRIOR

Sued for a Debt?
A Step-by-Step Guide

A free guide from CaseDefender

casedefender.com

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What a debt collection lawsuit is

A debt collection lawsuit is a claim, not a verdict. The company suing you has to prove its case, and you have real defenses and real protections at every stage.

Every year millions of Americans are sued over credit cards, medical bills, personal loans, auto loan deficiencies, and old accounts bought by debt buyers. Most of those cases are won by the plaintiff for one reason: the person being sued never responded. This guide walks through what happens, in order, and what to do at each step, in any state.

WHO USUALLY SUES

- Debt buyers who purchased the account, often for pennies on the dollar
- Original lenders and credit card banks
- Collection agencies acting for a lender
- Hospitals and medical providers
- Auto lenders after a repossession

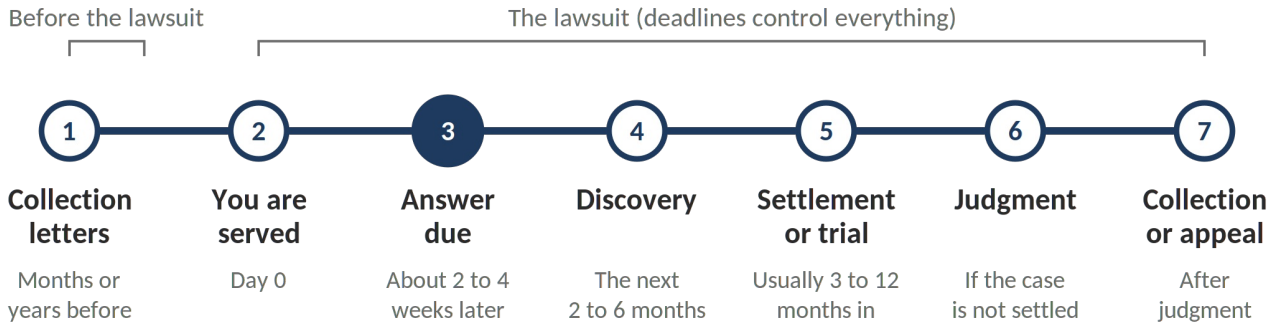
WHAT THEY HAVE TO PROVE

- That the account is yours
- That they own the debt, with a paper trail
- That the amount is correct
- That the lawsuit was filed in time
- That you were properly served

WHAT YOU HAVE TO DO

Open the papers, respond before the deadline, make the plaintiff prove its case, and show up. That is most of the battle. You can do it yourself, with legal aid, or with an attorney. Most people in these cases represent themselves, and the paperwork follows a predictable pattern.

The whole process at a glance



Timing varies by state and court. The one date that matters most is the response deadline printed on your summons.

STEP 1

Before the lawsuit: calls and letters

WHAT HAPPENS

Most debt collection lawsuits start long before anyone goes to court. An account goes unpaid, the original lender charges it off, and the debt is either sent to a collection agency or sold to a debt buyer, often for a few cents on the dollar. The debt buyer then tries to collect the full balance, plus interest.

Within five days of first contacting you, a collector must send a written notice telling you the amount, who the original creditor was, and that you have 30 days to dispute the debt. If you dispute it in writing within those 30 days, the collector has to stop collecting until it sends you verification.

WHAT YOU NEED TO DO

- Do not ignore the letters. Open them, date them, and keep every one.
- If you do not recognize the debt or the amount, send a written dispute within 30 days of the first notice. Keep a copy.
- Do not make a small payment to make them go away. In many states a payment can restart the clock on an old debt.
- Write down every call: date, time, who called, and what they said.

GOOD TO KNOW

Collectors cannot call before 8 a.m. or after 9 p.m., contact you at work if they know your employer does not allow it, threaten things they cannot legally do, or lie about the amount. These are federal rights under the Fair Debt Collection Practices Act, and violations can be worth money to you.

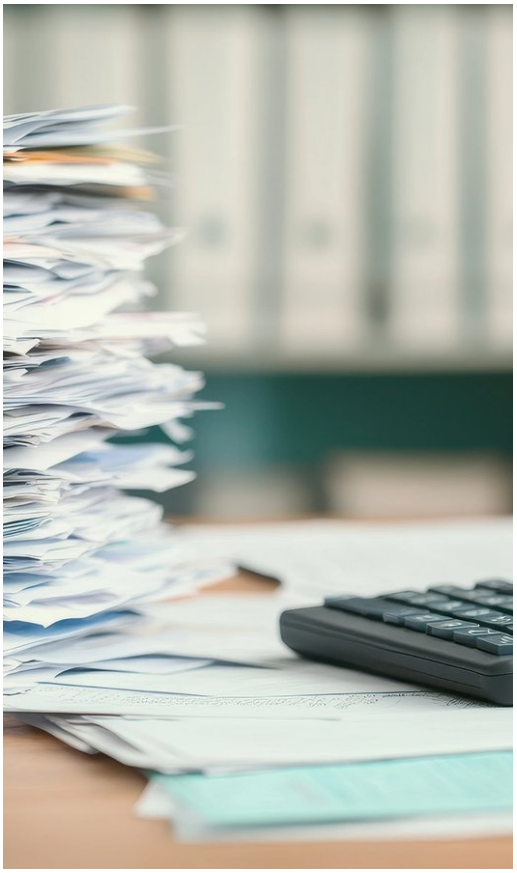
STEP 2

You are served

WHAT HAPPENS

A lawsuit officially begins when you are served with a summons and a complaint. The summons tells you which court the case is in and how long you have to respond. The complaint tells you who is suing, how much they claim, and why.

Service usually means someone hands you the papers in person, leaves them with an adult at your home, or in some states mails them or posts them on your door. Rules differ by state, but the one thing that does not differ is this: the day you are served, a clock starts running, and when it runs out the other side can win without ever proving anything.



WHAT YOU NEED TO DO

- Read the summons and find the response deadline. It is usually printed on the first page.
- Write down the date you were served. Keep the envelope and every page.
- Look at who is suing you. If it is a company you have never heard of, it is probably a debt buyer.
- Decide how you will respond: on your own with a self-help tool, through a legal aid office, or with an attorney. Do not let the decision eat up your deadline.

> **GOOD TO KNOW**
>
> Being served is not the same as losing. A lawsuit is a claim, not a decision. The plaintiff still has to prove its case, and many debt buyers cannot.

STEP 3

Your deadline and your three choices

WHAT HAPPENS

Depending on your state and the court, you typically have somewhere between 14 and 30 days from the date of service to respond. Some courts give you until a hearing date instead. The summons will tell you which applies to you.

You have three choices: file a written answer, file a motion asking the court to dismiss or fix the complaint, or do nothing. Doing nothing leads to a default judgment, which means the court enters judgment for whatever amount the plaintiff asked for, with no evidence required.

WHAT YOU NEED TO DO

- Calendar the deadline the day you are served and treat it as fixed.
- If you cannot find the deadline, call the court clerk. Clerks cannot give legal advice, but they can tell you the response date.
- Not sure of your date? The free deadline calculator at casedefender.com/deadline works it out from your service date and your state.
- If you miss the deadline, act immediately. Many courts allow a short window to set aside a default if you move fast.

Three ways to respond

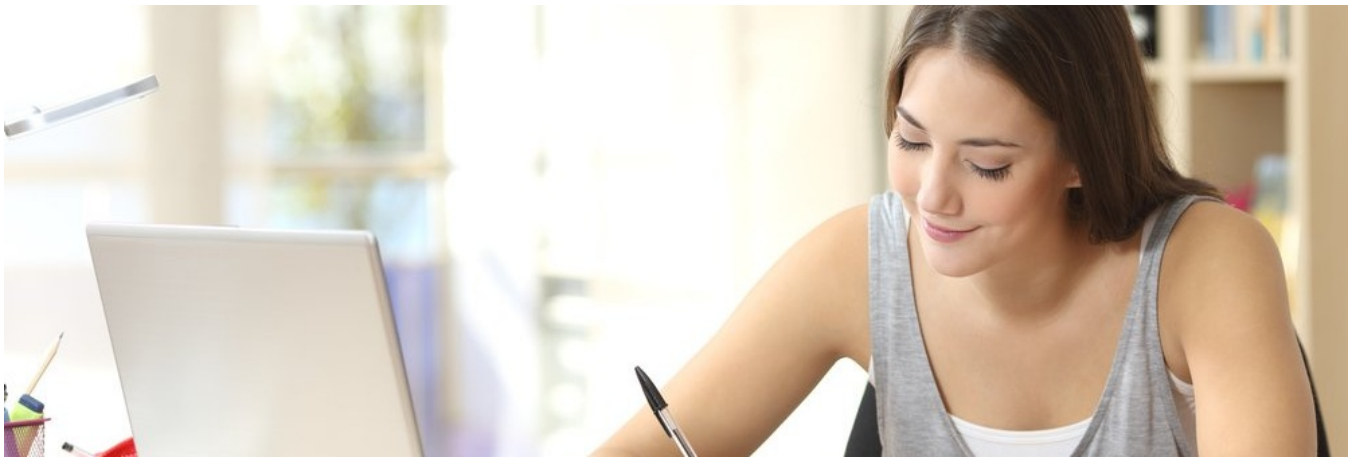
File an answer
Admit or deny each claim.
Raise your defenses. The case goes on.

File a motion
Ask the court to dismiss or fix
a problem before you answer.

Do nothing
Default judgment on their numbers.
This is how most people lose.

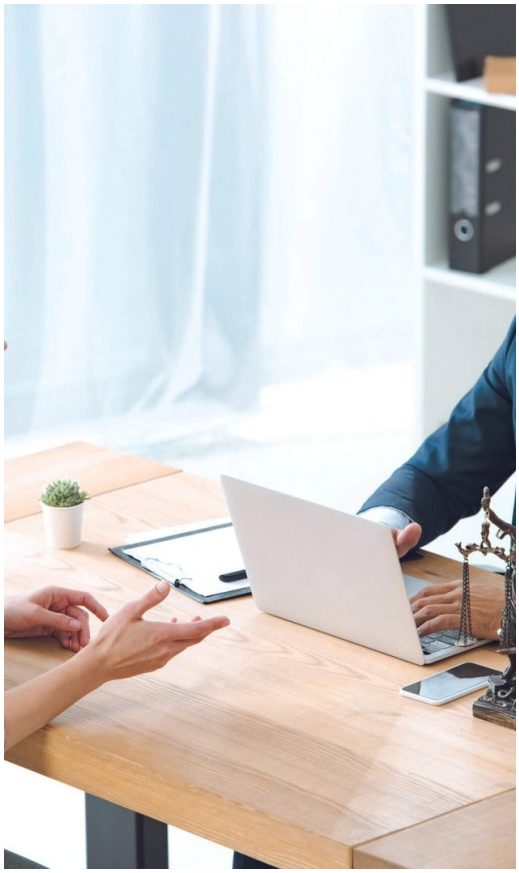
GOOD TO KNOW

More than two thirds of debt collection lawsuits end in default judgment, not because the debt was proven but because no one responded. Filing an Answer, by itself, puts you ahead of most defendants. CaseDefender builds one from your court papers in about ten minutes, and you can preview the whole document before you pay.



STEP 4

Filing your answer



WHAT HAPPENS

An answer is a short written document that responds to each paragraph of the complaint. For each one, you admit it, deny it, or say you do not have enough information to know. You also list your defenses. You have the right to file one yourself. Many courts offer a basic form, and CaseDefender builds a complete Answer with your court, case number, and defenses filled in, plus filing instructions for your state.

Common defenses in debt cases include: the lawsuit was filed after the statute of limitations ran, the plaintiff cannot prove it owns the debt, the amount is wrong, the debt was already paid or settled, the account is not yours, or you were not properly served.

WHAT YOU NEED TO DO

- File your answer with the court and send a copy to the plaintiff's attorney before the deadline. Keep proof of both.
- Deny anything you are not sure about. The plaintiff has to prove what you deny.
- List every defense that might apply. In most courts a defense you leave out is lost for good.
- If your credit card or loan agreement has an arbitration clause, consider asking the court to move the case to arbitration. The collector has to pay the arbitration fees, and many drop the case instead.

GOOD TO KNOW

Do not write a letter to the judge, call the plaintiff's attorney to explain, or send the court a payment. None of those count as an answer. Only a filed answer stops a default.

STEP 5

Discovery: they have to prove it

WHAT HAPPENS

Once you answer, the case enters discovery. Each side can ask the other for documents and written answers under oath. This is where debt buyer cases are won and lost, because a debt buyer often bought a spreadsheet, not a file. It may not have the signed agreement, the complete statements, or a clean record of each sale of the debt from the original lender to the company suing you.

You will likely receive requests from the plaintiff too. One kind, called requests for admission, is dangerous: in most courts, if you do not respond in time, every statement is treated as admitted, and the plaintiff can win on those admissions alone.

WHAT YOU NEED TO DO

- Ask the plaintiff for the signed contract, every monthly statement, and the bill of sale for each time the debt changed hands.
- Respond to every request you receive, on time, in writing. Never let requests for admission go unanswered.
- Pull your own records: old statements, payment history, and any letters you sent or received.
- Check the statute of limitations. If the last payment or charge was more than a few years ago, the case may be too old to bring, but only if you raise it.

What the plaintiff has to prove

You owe it	They own it	The amount	It is not too old
A real account in your name, opened by you.	An unbroken paper trail from the original lender to them.	Records showing the balance, interest, and fees are right.	The lawsuit was filed inside the statute of limitations.

GOOD TO KNOW

The plaintiff has the burden of proof. You do not have to prove you do not owe the money. They have to prove you do, with admissible records, and many cannot.

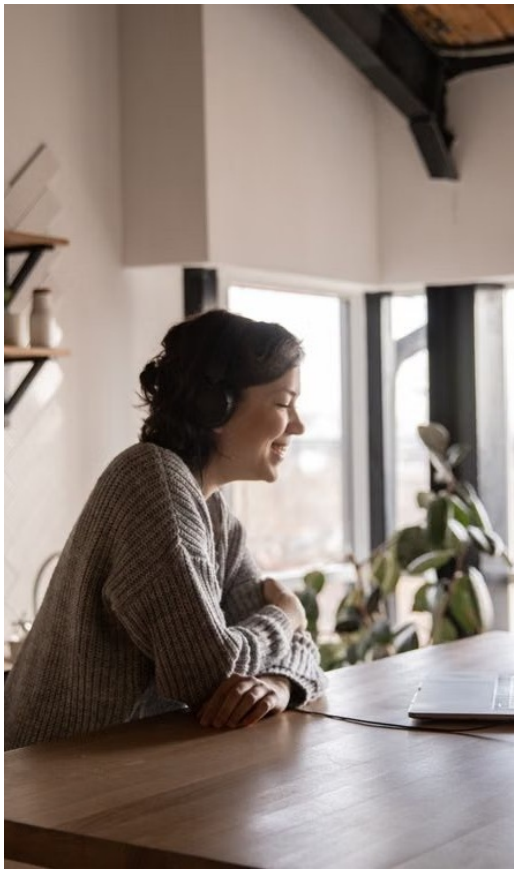
STEP 6

Settlement

WHAT HAPPENS

Most debt collection lawsuits end in a settlement. Once you have answered and asked for proof, the plaintiff's math changes: litigating a contested case costs more than most accounts are worth. That is leverage you did not have before you responded.

A settlement can be a reduced lump sum, often well below the balance claimed, or a payment plan you can actually afford. Either way, the terms must be in writing, signed by the plaintiff, before you pay anything.



WHAT YOU NEED TO DO

- Never agree to more than you can pay. A missed settlement payment usually means a judgment for the full amount.
- Get it in writing: the exact amount, the due dates, and a statement that the case will be dismissed with prejudice once you pay. A written offer, sent by you, starts the negotiation on your terms.
- Ask whether the plaintiff will report the account as settled or paid, and whether it will remove the tradeline.
- Keep proof of every payment. Keep the signed agreement forever.

> **GOOD TO KNOW**
>
> If more than $600 of the debt is forgiven, you may receive a 1099-C and the forgiven amount may count as taxable income. Ask a tax professional before you file that year's return.

STEP 7

The hearing or trial

WHAT HAPPENS

If the case does not settle, it goes to a hearing or trial. In most consumer debt cases this is short, often under an hour, and it is in front of a judge rather than a jury. The plaintiff has to present admissible evidence of the account, the ownership of the debt, and the amount. You can object to records that are incomplete or that the plaintiff's witness has no personal knowledge of.

Before trial, either side may ask the court to decide the case without one, in a motion for summary judgment. If you receive one, you must respond with your own evidence by the deadline, or the judge may rule on the plaintiff's version of the facts.

WHAT YOU NEED TO DO

- Show up. If you do not appear, you lose by default no matter how strong your defense is.
- Bring every document you have, organized by date, with copies for the judge and the other side.
- Dress neatly, arrive early, and speak only when it is your turn.
- Ask the court about its self-help center or local legal aid. Many courts have one, and it is free.

GOOD TO KNOW

If the plaintiff fails to appear or cannot produce its evidence, ask the judge to dismiss the case with prejudice. That means it cannot be refiled.

STEP 8

The judgment

WHAT HAPPENS

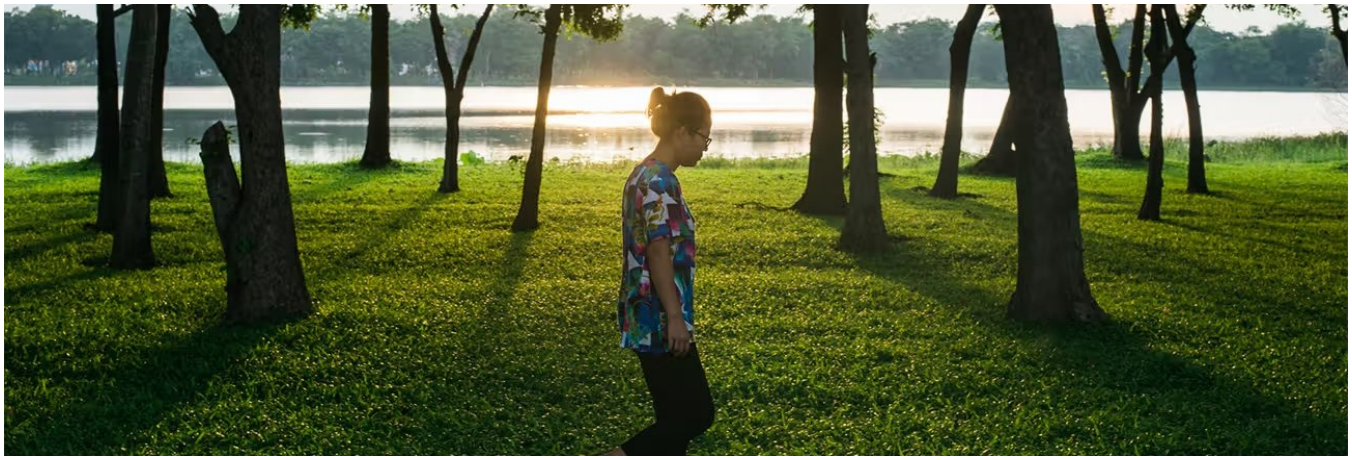
If the judge rules against you, the court enters a judgment: a written order that you owe a specific amount, usually with court costs, interest, and sometimes attorney's fees added. In most states a judgment lasts somewhere between five and twenty years and can be renewed, and it collects interest the whole time.

If the judge rules for you, or the plaintiff dismisses the case, the lawsuit is over. A dismissal with prejudice means it is over for good. A dismissal without prejudice means the plaintiff could refile, so keep your records.

WHAT YOU NEED TO DO

- Read the judgment carefully. Check the amount, the interest rate, and whether fees were added.
- If you believe the judgment is wrong, look into an appeal or a motion to set it aside right away. The deadlines are short, often 10 to 30 days.
- If you never received the lawsuit papers and found out about the judgment later, act immediately. A judgment entered without proper service can often be thrown out.
- If you won, save the dismissal order with your important papers.

> **GOOD TO KNOW**
> A judgment does not disappear if you ignore it. Interest keeps adding up, and the plaintiff can start collecting at any time.



STEP 9

After a judgment: collection and your protections

WHAT HAPPENS

A judgment is a piece of paper until the creditor enforces it. The main tools are wage garnishment, taking money from your bank account, and placing a lien on real estate you own. Each one requires a separate court process, and each one comes with protections.

Federal law caps wage garnishment at 25 percent of your take-home pay, or less if you earn close to minimum wage, and many states cap it lower. Social Security, VA, and most retirement and disability benefits cannot be garnished at all, and banks must automatically protect two months of directly deposited federal benefits. Every state also protects some amount of home equity, a vehicle, and household goods.

WHAT YOU NEED TO DO

- If you receive a garnishment notice, respond to it. There is usually a short deadline to claim your exemptions, and you lose them if you do not.
- Keep federal benefits in a separate account with nothing else in it, so the protection is easy to show.
- If the judgment is more than you could ever pay, talk to a bankruptcy attorney. A Chapter 7 wipes out most judgment debt and stops garnishment the day it is filed.
- Once a judgment is paid, get a satisfaction of judgment filed with the court and keep a copy.

> **GOOD TO KNOW**
> You can still settle after a judgment. Creditors often accept less than the full amount to close the file, especially if your income or assets are hard to reach.

Common questions

Can I go to jail for not paying a debt?

No. There are no debtors' prisons in the United States. You can only be arrested for ignoring a court order, such as an order to appear for a hearing about your finances. Showing up to every court date removes that risk.

The company suing me is not the one I borrowed from. Do I still owe it?

Maybe. Debt buyers purchase old accounts and have the right to collect them, but only if they can prove the chain of ownership from the original lender to them. Make them prove it.

I know I owe the money. Is there any point in responding?

Yes. Responding is what gives you the ability to challenge the amount, check whether the debt is too old to sue on, and negotiate a settlement for less. Defaulting gives the plaintiff everything it asked for.

What is the statute of limitations?

The deadline for filing a lawsuit on a debt. It is set by state law and usually runs three to six years from the last payment or activity, though some states are longer. A lawsuit filed after it ran can be dismissed, but only if you raise it as a defense.

Should I talk to the collector's attorney?

Be careful. Anything you say can be used against you, and agreeing to a payment plan on the phone can be treated as admitting the debt. Get offers in writing and have them reviewed before you agree.

Will this show up on my credit report?

The original account and the collection account probably already do. A judgment itself no longer appears on the three major credit reports, but the debt can keep reporting, and a garnishment can show up through your employer.

Can I really do this without a lawyer?

Yes. Representing yourself is your right, and it is what most people in these cases do. The paperwork follows a predictable pattern, which is why self-help tools work. If your case is unusual or a lot of money is at stake, a licensed attorney in your state is worth a consultation, and your state bar keeps a referral list.

What is arbitration, and why does everyone say it works?

Most credit card agreements say disputes must go to a private arbitrator instead of a judge. Asking the court to move your case there costs the collector real money, often more than the account is worth to them. Many drop the case rather than pay.

Is bankruptcy a better option?

Sometimes. If this lawsuit is one of several debts you cannot pay, a Chapter 7 bankruptcy can wipe out all of them at once and stop every collection action. A bankruptcy attorney can tell you in one consultation whether it makes sense.

How a case gets off track

Every one of these is avoidable, and every one of them has cost someone a case they could have won. If any of them is happening to you, act today. Most can still be fixed if you move quickly.

- Not opening the mail, and finding out about the lawsuit after the deadline passed.
- Calling the plaintiff's attorney to explain instead of filing a written answer.
- Missing the response deadline by a few days and assuming it is too late to do anything. It is often not.
- Ignoring requests for admission, which are then treated as admitted.
- Making a small payment on an old debt and restarting the statute of limitations.
- Agreeing to a payment plan you cannot keep, then defaulting on the settlement.
- Not showing up to the hearing.
- Ignoring a garnishment notice and losing exemptions you were entitled to claim.

CaseDefender by Consumer Warrior

Sued for a debt? Build your court Answer in about ten minutes at **casedefender.com**. It is free to build and preview. You pay only when you download. Document builders are also available for arbitration, discovery requests, and settlement letters, along with plain-English video courses on every step of the case.

Free deadline calculator: casedefender.com/deadline · support@casedefender.com

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