



What to Do If You Are Sued

I'm being sued. What happens next?

If it is **Conciliation Court**, the papers come in the mail from the court if the claim is under \$2,500. If it is over \$2,500, the papers come by certified mail from the person suing you. The court papers tell you the time and date of the hearing and have a statement about why you are being sued.

If it is **District Court**, the papers usually come in person from a process server. This could be a sheriff's deputy or a lawyer. The papers need to be "served." Most often this means that the papers are handed to you or someone in your household. That person needs to be "of suitable age and discretion." There are no set rules about age, but it generally means someone over the age of 14 who doesn't have any disabilities that would keep them from understanding or getting the papers to you. Sometimes you get the papers in the mail. If you do, you need to sign a waiver of personal service. The waiver of personal service comes with the papers. The papers don't have a court date on them.

Conciliation Court

Conciliation Court is a small claims court for cases up to \$15,000. Consumer credit cases, like credit card debt, are limited to \$4,000. You don't need a lawyer in Conciliation Court.

Answers and Counterclaims

You do not need to file a written Answer in Conciliation Court to the claim against you. But, if you think the person suing you actually owes money to you, you need to file a "Counterclaim" at least 5 working days before the court date. Go to the court and tell the clerk you need a Counterclaim form to fill out.



You can also [find the forms online](#). Go to www.mncourts.gov and:



- Click on *Get Forms*
- Click on *Conciliation / Small Claims Court*
- Look under the forms section called *Responding to a Conciliation Court Claim Forms*
- Click on *Defendant's Statement of Counterclaim*

NOTE: if you are not sure what you need it may be best to click on the *Responding to a Conciliation Court Claim* packet. Make sure you read the instructions.

Settlements and Getting Ready for Court

Settlements and how to get ready for court are talked about below in the District Court section. They are the same for Conciliation Court.

In Conciliation Court you can ask the court clerk for a subpoena to make the other side bring documents to court. Ask for this well before the court date.

If you lose in Conciliation Court, you have 20 days from the date of the order to ask for an appeal trial in District Court. Call a lawyer right away for help because District Court can be complicated. You can be ordered to pay the other side's costs if you ask for a new trial and lose.



See our fact sheet [Conciliation Court](#).

District Court

District Court is much more complicated than Conciliation Court. If possible, see a lawyer right away. If you have a low income, call your local legal aid office at 1(877) 696-6529. Or look for help from other programs at www.lawhelpmn.org/providers-and-clinics.

If you are being sued in District Court, you get papers called a "Summons and Complaint." If you want to fight the claim you have to "Answer" the Complaint.

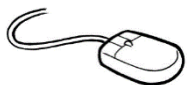
The "Answer"

If you have a defense to the claims in the Complaint, you must "Answer" the Complaint within 21 days of the day you got the papers. An Answer is your legal response to the court papers you get.

If you disagree with the Complaint, it is **very** important that you send a **written** Answer. There are 2 ways to do this:

Online:

You can [create an Answer online](#). Go to: www.lawhelpmn.org/forms.



- Under *Debts, Fees, and Deposits*
- Click on *Answer a "Summons and Complaint" - Debt Collector Lawsuits*

This is a step-by-step interview that lets you print out a completed Answer.

By Hand

Your Answer can be in the form of a letter. Make sure you put identifying information from the Complaint into your Answer. Like the names of the parties or a case number if there is one.

Your Answer must respond truthfully to each claim in the Complaint. There are 3 possible responses to each claim:

- 1) I admit this claim is true.
- 2) This claim is not true.
- 3) I don't know if this claim is true or false.

It is NOT a defense to say you can't afford to pay a debt you are being sued for.

If you think the other side owes you money, write the reasons why as part of your Answer and label it a Counterclaim.

IMPORTANT: A phone call to the other party or lawyer is **not** a legal Answer **ever**.

When you are done with your Answer letter, make sure you date and sign it. Then mail or deliver it to the party who is serving you or their lawyer. That information is in the original Summons and Complaint. Write down the date you mailed or delivered it. **Keep the original copy of the Answer, you might need to file it in court.**



What if I don't send an Answer?

If you do not Answer the Complaint you lose the case by default and a judgment is entered against you.

If you wanted to do an Answer but the 21 days have passed, you should still send an Answer as soon as you can.

If you were sued and lost because you did not respond on time, and you have a defense to the lawsuit, see a lawyer right away. Sometimes you can get the case re-opened.

What happens after I send an Answer?

After you answer, you may get other papers. Respond to ALL papers even if you answered the Complaint. These papers can be called "Interrogatories," "Requests for Documents," and/or "Requests for Admission." **Do not ignore these papers. You must answer them.** Make sure your answers to the questions are true and complete. Keep the originals for yourself and mail copies to the other side.

You can try to settle your case

For example, you can agree to pay the other side some money, but not as much as they asked for. You might set up a payment plan. Call or write the other side with your proposal. Keep copies of anything you send. Do not make a deal you can't follow through with.

If both sides agree to it, the parties can all meet with a mediator before the court date. Mediators are trained to help settle disputes. There might be a fee.

To find mediators:

- Check Community Mediation Minnesota at <https://communitymediationmn.org/>
- You can also call 2-1-1 statewide, text them your zip code at 898-211 or chat online at www.211unitedway.org.
- The state court website also has info and a list of mediators: <http://www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.aspx>.

Put any agreement in writing! Both parties must sign and date it. Even though you agree to a deal you need to get the agreement to the court, so the court can make it into an order. This helps protect you in case there are problems later.

If you don't agree or if you didn't try to make a settlement, you have to go to court.

Reminder: you have to go to court even if you do have an agreement. This is called putting the agreement "on the record." Then the court issues an order.

Getting ready for court:

- The court sends you the day and time for your hearing.
- Give yourself plenty of time before your court date to get ready.
- Be sure you know what the court hearing is about – read the papers that were sent to you about the hearing. You may have to go to court several times. You could have a hearing before the actual trial, then the trial when witnesses testify.
- Watch a court hearing and trial to see how they work. You can also watch a video called [How to Handle a Conciliation Court Hearing](#) on YouTube.
- Write down a list of everything you need to say.



- Talk to witnesses and ask them to come to the trial. A witness coming to court is much better than a written statement from them. The judge may not even look at a written statement. If an important witness does not want to come to the trial, ask the court clerk for a “subpoena.” A subpoena is a court order that says the witness has to go or bring evidence to court.
- If you know the person suing you has papers or evidence they do not want to show you before court, you can send them your own “Interrogatories” and “Requests for Admissions and Documents.”
- Practice stating your case to a friend as if you are in court.
- Make sure you have copies of your answer and any other papers you responded to. Organize all your papers in labeled folders.
- Gather all your evidence to bring to court: photos, letters, receipts, estimates, leases. You need to prove your case and show evidence to support your case.
- Call the court administrator before a hearing if you or a witness need an interpreter.
- If you are not using a lawyer, go to your county law library to get more information about the court process and about the laws involved in your case. If you have a trusted friend, relative, or adviser, ask them to help you through the process.

Go to Court on Time

If you don't, you lose automatically. If you can't go to the hearing or trial, call the court right away and ask to change it. They might give you a different date.

If you miss court because you had an emergency or never got the papers you can ask for another hearing by going to the court. You have to show why you were not at the hearing. Bring proof of the reason you did not make it.

For example, if you missed the hearing because you were in the hospital, bring your hospital record. If you never got the papers and found out about the case later, tell the court. Often you need a lawyer to reopen a case.



At the Hearing

When you are at the hearing, be **very** polite to the court and the other side. **Don't interrupt** when others are talking. Don't get mad. Talk directly to the judge. **Your case can depend on the impression you make!**

If You Lose in District Court

If you lose your case in District Court, you can try to appeal but appeals are usually not successful. A lawyer's help is needed to appeal. If you lose, the other side gets a Judgment. A Judgment is an Order saying that you have to pay them money and/or to do something.

If you do not pay, the other side will probably try to collect it. They can garnish (try to take money out of) your wages or bank account. They can also garnish your wages or bank account if you do not answer the Complaint in the time given or if you do not show up to court and lose. **Do not ignore a lawsuit against you.**

Your money may be protected from collection if you get Social Security, veteran's benefits, a pension, or public benefits. You may have to take steps to protect it. Your wages are protected if your net weekly earnings are less than 40 x the state minimum wage or about \$1,520 a month. See our fact sheet, [Garnishment and Your Rights](#).

A Judgment stays on your credit report for at least 7 years. It shows up when you apply for credit. A credit counselor may be able to help get a payment plan with the other side. Look for a nonprofit credit counselor. Be careful about people who charge you money to help you with your debts.

Bankruptcy is also a possible way to deal with debt. You should talk to a bankruptcy lawyer for more information.



Call 2-1-1 statewide. You can also text them your zip code at 898-211 or chat online at www.211unitedway.org. They can help you find credit counselors or bankruptcy referrals.

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

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