Should I Answer?

Responding to a Breach of Contract Lawsuit

When a lawsuit is started against you, the Plaintiff will have you served with a Summons and Complaint. These documents formally notify you that a lawsuit has been initiated, and what the lawsuit is about.

What are my options?

You have three basic options once you are sued:

1. Try to negotiate a settlement.

You can attempt negotiations at any time during your case. Your negotiations do not automatically stop the lawsuit. The other party can proceed with a default judgment against you unless you file a response with the court. If you attempt negotiations prior to filing a response, you may want to ask the other party for additional time to reply to the lawsuit, in case your negotiations fall through. Be sure any agreement you reach is in writing. You can always write the other party a settlement offer letter and begin negotiations.

Keep in mind

To file a response to the lawsuit, you will have to pay a court filing fee of $225-$435, based on the amount you're being sued for, unless you qualify for a fee waiver.

If you lose the case, you will be responsible for the other party's court and attorney fees. If you do not respond and the judgment is obtained by default, these fees are usually less because the attorney has spent less time working on the case.

2. Do nothing.

Don't answer and allow the plaintiff to obtain a default judgment against you. Once a Default Judgment is filed with Court, proceed with a motion to pay in installments.

Many people who do not have a valid legal defense to this type of case choose not to respond. (Note: not having the money to make payments is NOT a valid legal defense!).

If you do not respond to the lawsuit, the other party may get a default judgment against you. This means that the other party wins, and the court will not consider anything you have to say. Although this may sound bad, for many people it is the quickest, least expensive way to resolve the case.

Once a default judgment is entered, you may be able to ask the court for permission to pay the judgment in installments over time as long as the amount of the debt is $25,000.00 or less ($35,000 or less after Jan. 1, 2024).

3. Respond to the lawsuit.

If you believe you have a valid legal defense to this lawsuit and wish to defend yourself, you will need to file a response.

There are many methods for responding to this type of lawsuit. One common method is to file an Answer. You have 30 days from the day you received the papers in person, or the day you were “served,” to file a written response in proper legal form.

If you received the documents by “substituted service,” that is, if the papers were left with someone at your home or office and later mailed to you, you have 40 days after the date the documents were mailed to file a written response in proper legal form.

Your 30 (or 40) days start the day after service. If the 30th (or 40th) day falls on a weekend or court holiday, you have until the end of the next business day to file your papers. Your Summons will probably have a date stamped near the bottom. This is the date the documents were filed with the court, not the date you were served.

Sample Settlement Offer Letter

[Plaintiff’s Attorney’s name and address]

Date:
RE: [Plaintiff vs. Defendant]
Case No: [xx-xxxx-xxxxxxxx]

Dear [Plaintiff's Attorney's name]:

As a Good Faith Settlement Offer, Defendant is ready, willing and able to settle this matter by making a one-time lump sum payment of [$0.00] to pay the debt in full with Plaintiff's guarantee to dismiss the action with prejudice and submit a Universal Data Form to Experian, Equifax and TransUnion, deleting the account/trade line.

OR

As a Good Faith Settlement Offer Defendant is ready, willing and able to settle this matter by making monthly payments of no more than [$0.00] per month until debt is paid in full with Plaintiff's guarantee to dismiss the action with prejudice upon final payment submit a Universal Data Form to Experian, Equifax and TransUnion, deleting the account/trade line.

Please contact me in writing by [date], so I can proceed accordingly. Thank you in advance for your anticipated cooperation in this matter.

Respectfully,

[Your name]