

Guide to Debt Collection Actions in Maine Courts

Legal Services for the Elderly provides free legal assistance to Mainers age sixty (60) or older who have been sued on a debt. If you have any questions about a debt, please call our Helpline at 1-800-750-5353.

This information sheet covers only unsecured debt, such as credit card, private student loan debt, and medical debt. The following briefly describes the various steps a debtor will face in a typical debt collection case in a Maine court. If you owe money to somebody, you are the “debtor.” The person to whom you owe the money is called a “creditor.”

Step One: Service of Court Paperwork

A debt collection court case begins when you receive a “Summons,” and a “Complaint.” The Complaint will have a one page form notice attached to the front of it. The form notice will let you know that a judgment in the amount demanded in the Complaint may be entered against you if you do not answer the Complaint. It will also include a “Sample Answer” which you can complete and return to the court as the answer to the Complaint.

Normally, a deputy sheriff will serve you with the court paperwork. There is nothing to fear if a deputy sheriff knocks on your door. The deputy sheriff is there to simply hand you the paperwork. A debt collection case is a civil matter- not a criminal matter- so you will not be arrested or taken to jail.

Step Two: Decide if You Want to Respond to the Court Paperwork

Most people do not have a valid defense to the lawsuit and do not need to respond to the initial court paperwork. If you have questions about whether or not you should dispute the debt, please call our Helpline. If we advise you that you do not need to respond, please skip to Step Four below.

If you believe that you do not owe the debt, then you need to file an “Answer” with the Court within twenty (20) days of being served with the initial court paperwork. You may use the Sample Answer which was attached to the front of the Complaint. Complete and return it to the court, either in person, or by mail. If you use the Sample Answer, you do not need to file something more formal later on. You should keep a copy of what you send to the court for your own records.

Step Three: Contested Hearing

If an Answer is timely filed with the Court, the Court may send you a “Scheduling Order” that gives the date, time and location of the hearing. It may also give deadlines for discovery. Discovery is the legal process for getting information from the other party in the lawsuit.

At the hearing, the Court will decide whether or not you owe the alleged debt and the amount of the debt.

Step Four: Entry of Order or Default Judgment

After the Court holds a hearing, the Judge will write his decision in an “Order.” You will either be given a copy of the Order after the hearing, or the Court will mail you a copy.

If you did not file an Answer or you failed to appear for the hearing, the Court may eventually enter what is called a “Default Judgment” against you finding that you owe the debt. The Court will not enter a “Default Judgment” against you unless the plaintiff (the “creditor”) is able to provide admissible evidence to the Court on all the required parts of its claim. This includes evidence that the creditor is the current owner of the debt. If a Default Judgment is entered against you, the Court will mail you a copy. You do not need to respond to the “Default Judgment.”

Step Five: Contact from the Creditor’s Attorney

After an “Order” or “Default Judgment” is entered by the Court, the creditor’s attorney may send you a letter or call you requesting payment on the debt. You do not need to respond to such a letter or agree to make any payments.

Step Six: Disclosure Hearing

The creditor’s attorney may also serve you with a “Disclosure Subpoena.” Again, service is usually done by deputy sheriff. The Disclosure Subpoena will tell you what date and time you must appear in Court for a “Disclosure Hearing” and may also command you to bring certain documents with you to Court.

It is very important not to ignore a Disclosure Subpoena. Please call our Helpline for assistance immediately if you receive a Disclosure Subpoena. Under the law, some income sources and assets are protected from creditors. Please call our Helpline to discuss whether your income and assets are protected.

The point of a Disclosure Hearing is to get information about your income and assets. You may have an opportunity to “mediate” (negotiate) with the creditor’s attorney outside the courtroom. You should not make any payment agreement that you cannot truly afford. Don’t feel pressured to reach an agreement just to

avoid a hearing. If you do reach an agreement, make sure you go back into the courtroom and wait until the Judge makes your agreement into an “Order.”

If you are unable to reach an agreement, you will have a full court hearing and you will have to testify about your income, assets and living expenses. The Judge will decide whether or not you have to pay the debt and enter an “Order,” including any payment terms.

Step Seven: Failure to Follow the Order

A court Order instructing you to make payments on the debt is binding and legally enforceable. If you fail to make the ordered payments, you may be brought back to Court. If you are served with a “Motion for Contempt” or another Disclosure Subpoena, please do not hesitate to call the Helpline back.