

From Summons To Sheriff

"A Brief Summary on the Legal Process"

The Goal of a good collection service is to retrieve the outstanding balance in the shortest possible time. However, occasions do arise when litigation is the only procedure remaining to recover the delinquent debt. At this point, a quick collection is not possible and the road to legal reimbursement is long and involved.

When court costs and suit fees are received at Credit Mediators all the necessary paperwork and documentation are reviewed to ensure that the file is complete. The legal coordinators then forward the required documentation along with the check for costs and fees to a collection attorney in the debtor's jurisdiction. Once the attorney receives this information, he prepares a summons and complaint. This specifies the plaintiff (creditor), the defendant (debtor), and how the balance was determined. Appropriate court costs and interest are also added to the balance at this time.

The summons and complaint are then filed with the proper court and likewise issued for service on the debtor. The service may be by constable, private process server or sheriff. If service is unable to be made, (debtor moved, went out of business) the summons and complaint will be returned unserved with the reason why. Depending on the circumstances, the creditor may choose to have the debtor skip traced or elect not to proceed further. The service of the summons and complaint will show the debtor how serious the creditor is about collecting the debt. This may prompt the debtor to arrange a payment plan or repay the balance in full.

Once service is made, the debtor has the right to defend the lawsuit by filing an answer. This is usually a response stating why he feels he does not owe the money. The debtor will have 20-45 days (time period varies nationally) in which to respond. In certain disputed situations the debtor may file a counterclaim against the creditor for an amount he feels is owed to him.

If an answer is filed and the debtor raises a defense, then the matter will be set for trial. If the debtor files an answer of "general denial", the attorney may file a motion for summary judgment, wherein the creditor may be able to obtain judgment by proving his case with the documents that support the claim.

If debtor chooses not to respond to the complaint in the time allotted, default judgment will be entered. The debtor has the right to file an appeal to the judgment entered against him. If no timely appeal is filed, then the judgment becomes final. A positive aspect to obtaining a default judgment is that it is not necessary for the creditor to appear in court and the matter is concluded quickly.

The judgment amount includes the principal, court costs and interest (rate applicable for the state) accruing from the date of the judgment. . The primary advantage to having a judgment recorded against the debtor is that it will stand as a lien against the debtor's real property. He may want to resolve this matter immediately to keep his assets free and clear from liens and to alleviate additional costs.

If the debtor chooses not to pay the judgment entered against him, then the creditor has the right to enforce the judgment through execution. This can involve a sheriff's sale of the debtor's property, and/or attachment of bank accounts.

Credit Mediators will instruct the attorney to take all steps legally possible to levy the debtor's assets and satisfy the judgment awarded on clients behalf. CMI's Legal Coordinators continuously follow up with the attorneys to monitor that the claims are being handled properly, suit is filed promptly, and all measures are implemented to successfully collect the balance due.

CMI Legal Forwarding Division is here to assist you with any questions or concerns. Please feel free to email us at: info@cmiweb.com