



Free Legal Help for Maine's Seniors

GUIDE TO DEBT COLLECTION ACTIONS IN MAINE COURTS

The Legal Services for the Elderly Helpline gives free legal help 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 Guide covers only debt collection actions for unsecured debt, such as credit card and medical debt. The Guide provides a brief description of the 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 either a “Statement of Claim” or a “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. A debt collection case is a civil matter- not a criminal matter- so you will not be arrested or taken to jail. The deputy sheriff is there to simply hand you the paperwork.

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 the Legal Services for the Elderly’s Helpline at 1-800-750-5353. If the LSE attorney advises 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. Your “Answer” is a letter in which you explain why you dispute the debt and it can be either mailed to the court or hand-delivered to a court clerk. A copy of your “Answer” should be mailed to the creditor’s attorney and you should keep a copy for your own records.

Step Three: Contested Hearing

If you file your “Answer” with the court within twenty (20) days of being served with the initial court paperwork, the court may send you a “Scheduling Order” and/or a “Notice of Hearing” that gives the date, time and location of the hearing.

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 her 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 go to the hearing, the court will eventually enter what is called a “Default Judgment” against you finding that you owe the debt. The court will mail you a copy of the “Default Judgment.” 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.” Also, it might tell you that you need to bring certain documents with you to court.

Do not ignore a “Disclosure Subpoena.” Please call the Legal Services for the Elderly Helpline for help immediately if you receive a “Disclosure Subpoena.” Under the law, some income sources and assets are protected from creditors. Please call the Helpline at 1-800-750-5353 to find out whether your income and assets are protected.

The point of a “Disclosure Hearing” is to get information about your income and assets. You might be able to “mediate” (negotiate) with the creditor’s attorney outside the courtroom. You should not make any payment agreement that you cannot truly afford. Do not feel pressured to agree to anything just to avoid a hearing. But, 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 can’t come to an agreement, you will have a full court hearing and you will have to talk about your income, assets and living expenses. The judge will decide whether or not you have to pay the debt and will enter an “Order.” The “Order” will include any payment terms.

Step Seven: Failure to Follow the Order

You must follow the instructions in the “Order.” A court “Order” that tells you to make payments on the debt is binding and legally enforceable. This means that if you don’t follow the instructions in the “Order,” you can be brought back to court. If you are served with a “Motion for Contempt” or another “Disclosure Subpoena,” you might want to call the Helpline back at 1-800-750-5353.