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A Maryland Judiciary Production  
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Defending Against a Small Claim

In this video, we will discuss the options available to you when someone files a small claim against you in District Court. This is a brief list of the ways you can respond to defend against a small claim.

First, you will be officially notified of the claim against you when you receive the summons and a copy of the complaint. The summons is the document that notifies you that the other side has filed a complaint against you. The complaint is a document that the other side files with the court to start the suit. The summons will give you the time and place of the trial. The party suing you is called the plaintiff. You, the person being sued, are the defendant.

Small claims court is part of the District Court of Maryland. It handles claims for \$5,000 or less and is not as formal as other Maryland courts. The rules of evidence and procedure are simplified so that it's easier to go to court without a lawyer. However, you may have a lawyer if you choose. A judge will decide your case, not a jury.

Although small claims court is less formal, you may want to talk with a lawyer if the other person's claim involves personal injury and medical expenses, a traffic accident, or if you are unable to fill out the necessary forms. You may qualify for free or reduced-cost legal help from one or many organizations. For more information, visit the Maryland People's Law Library at [www.peoples-law.org](http://www.peoples-law.org). Click "Get Help Now" in the upper left corner.

You have several options when you receive notice that a small claim has been filed against you. You can try to work out the problem without going to trial. Speak directly with the other person or ask if they're willing to go to mediation. You can argue that the plaintiff did not serve you properly. You can file a motion to dismiss and argue that there is something wrong with the plaintiff's case. You can file a notice of intention to defend if you do not believe that you owe the amount of money that the other person claims you owe. You can file a counterclaim if you believe that the other person owes you money. Finally, you can ignore the summons by not doing anything. Keep in mind that if you ignore the summons and do nothing, the court is likely to enter a default judgment against you in favor of the other side. The other side may then take further action to collect the money you owe.

Option 1: You can try to settle the dispute before your court date by talking with the other person, if it is appropriate in your case. You can also try to settle the claim by going to mediation.

In mediation, a trained, neutral person called a "mediator" can help you and the other side find a solution to which you can all agree. The District Court's Alternative Dispute Resolution program provides help with mediation. For more information about mediation, ask for the brochure "Mediation – Is Going to Trial Your Best Option?" You can also call the Alternative Dispute Resolution office at (410) 260-1676.

Option 2: If, under the Maryland rules, you were not served correctly, you can raise this issue with the court in one of two ways. You can file a pre-trial request that the court dismiss the case because you were not served properly under the rules. Or you can

make this argument at trial. In either case, the court will postpone the trial, and the other side may have to re-serve you with a new summons.

Option 3: You can file a motion to dismiss if the other side's complaint does not meet certain legal requirements. For example, under Maryland Rule 3-601, the judge can enter a "judgment on affidavit" instead of going through a trial if the other side gives the court certain documents. If the other side did not do so, or if the documents are about "Joe Smith" and your name is "Bob Smith," you can file a motion to dismiss.

If you believe that you do not owe the money that the other side claims you owe, you must file the notice of intention to defend with the court within 15 days of receiving the complaint. If you live outside of Maryland, then you have 60 days to return the notice. The notice of intention to defend is located on the bottom half of the summons. By filing it, you are stating that you plan to argue that you are not required to pay the money the other person claims you owe him or her.

To return the notice of intention to defend, cut the notice at the perforated line and return it to the court address listed at the top of the summons. You may write on the notice the reasons why you should not have to pay the amount that the other side claims you owe. When you go to court, you will have to prove these reasons to the judge.

If you believe the other person owes you money, you may file a lawsuit of your own (called a counterclaim). You must be able to prove to the judge that the other person owes you money. File a counterclaim by filing a complaint form in the District Court. See the video *Bringing a Small Claim* for more information on how to bring a lawsuit of your own.

If you ignore the summons, the judge may enter judgment against you without holding a trial. If this happens, you will receive a notice with the date the judgment was entered, the amount of the judgment, and any additional amounts that you owe. The judgment will be the entire amount that the other person claims you owe in the complaint. However, the judge may decide that the other person did not present enough evidence and decide to schedule a new trial. If this happens, you will receive a notice in the mail with the new date.

If your case goes to trial, prepare for your day in court. You can find court locations and directions on the Maryland Judiciary's website at [mdcourts.gov](http://mdcourts.gov). Look up the law, and prepare what you are going to say. Organize and present your exhibits, which are documents or other objects that you will present as evidence to the court. Also, choose and prepare any witnesses.

For more information, contact the clerk's office, the District Court Self-Help Center, or visit [mdcourts.gov](http://mdcourts.gov).

This has been a production of the Maryland Access to Justice Commission. For more information, visit [mdcourts.gov/mdatjc](http://mdcourts.gov/mdatjc).

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