DEBT SETTLEMENT PROGRAM

CLIENT EDUCATION PROGRAM

BEING SUED IN SMALL CLAIMS COURT

This Pamphlet is part of a series which deals with the issues that are raised when one of your Program Creditors brings a lawsuit against you to collect their debt. If you have not read the Pamphlet entitled Being Sued "You Received a Summons" please do so now and if you did not receive the Pamphlet contact the Client Services Department at our toll free number (877) 964-6404 for a copy. It is not the purpose of this Pamphlet to either encourage or discourage you from representing yourself in Court. We are merely trying to give you a brief summary of the legal process so that you can make a more intelligent decision as to whether or not you want to hire a lawyer or you want to handle the case yourself.

The Process.

Virtually every State has a Small Claims Court to hear disputes involving modest amounts of money. The range is from $1,000 to $10,000, with most States falling between $2,000 and $3,500. A Small Claims Court handles matters without long legal delays or formal rules of evidence and is intended for people who want to represent themselves. If you owe the creditor a few thousand dollars or less, you may be sued in your State's Small Claims Court. Even if the amount you owe is above your States small claims limit, the creditor may choose to sue you in Small Claims Court and give up (waive) the excess.

Service.

Because of the fact that Small Claims Court does not have the legal formality of a Civil Trial Court, most States begin the small claim's process by mailing the Defendant, by Certified or Registered mail, a copy of the Small Claims Complaint. This form give you the location of the Court and the details of the claim that is being made against you including the date, time and place where the claim will be heard by a Judge.

Written Response.

In most States you don't have to file a written response to a lawsuit in Small Claims Court you simply show up on the date of the hearing. However, if you have some specific defenses to the claim or you have a claim against the creditor who is suing you (for example the creditor sold you defective merchandise) most States require that you file a written response to the creditor's claim so that both the creditors claim and your claim can be heard at the same time. You will either receive instructions as to how to do this in the notice that is sent to you by the Court or you can contact the Clerk's Office of the Small Claims Court if you need help in preparing and filing your response.

The Hearing.

Be sure to show up at the hearing. If you don't then you will lose the case since a judgement by default will entered against you. At the hearing just be yourself and tell your side of

the dispute. You don't normally need to hire a lawyer, even if your State allows them in Small Claims Court and the creditor has one. Small Claims Court is designed to operate without lawyers and most small claims judges feel that people do just as well or better representing themselves. It is not the purpose of this Pamphlet to discourage you from using a lawyer and if you feel the need for a lawyer then by all means you should consult one.

To those of our Clients that speak English as a second language and who do not feel comfortable expressing themselves in English, all States have some provision for a translator but you MUST speak with the Court well in advance of the hearing to find out what the rules are regarding translators.

If you lose the case, and the lawsuit is successful you will owe a debt (in the form of a money judgment). Please see the Client Education Program Pamphlet entitled "The Creditor Has A Judgment" on what to do when the creditor has a money judgment.

What Are Your Options.

1. Do Nothing:

If you owe your creditor the money alleged in the Complaint and you don't respond or don't show up at the hearing you will be defaulted by the Court and your creditor will get a Judgment against you. A Judgment is a document issued by the Court which says that the creditor wins the lawsuit and is entitled to the amount of money stated in the Complaint. Within a few days after the Judge has defaulted you a Judgement will be issued by the Court Clerk and either the Clerk or the creditor (or both) will send you a copy of the Judgement.(Please see the Client Education Program Pamphlet entitled "The Creditor Has a Judgment")

2. File an Answer:

If you feel you have a case against the creditor then respond to the lawsuit either by preparing the documents yourself (most Small Claims Courts will help you) or;

3. Use Your Own Lawyer

Lawyers can be expensive but may be worth it if you have a strong claim against the creditor that could defeat the claim against you or even generate substantial money if you win.