

Once they have a final judgment, the company may take legal steps to collect the debt.

If a company gets a judgement against you:



File a paper with the court called a **Personal Property Exemption Claim** within 10 days of the judgment.

This can protect some of your personal belongings and bank accounts.

### What happens if I appeal the courts decision?

If you do not agree with the judges decision you can file an **appeal**. When you file an appeal:

- You have 10 days from the court date to appeal.
- The case goes to a higher court and is treated like a new case.
- Most people need a lawyer for this.

### What if you lose the appeal?



You will owe more court costs and may also owe lawyer fees.

**Can the company take money from my paycheck? Maybe.** They may be able to take money out of your paycheck before you are paid. This is known as a **garnishment**.

The good news is the law may protect you from garnishment.

**Can the company take my Social Security/SSI check? Maybe.** If your check:

- Goes directly to you and not into a bank account, the creditor cannot take it.

- Is deposited into a bank account, file a **Personal Property Exemption Claim** within 10 days after the court date to protect your money. Be sure to list your bank account number on it.

### What if I owe the debt and don't want to fight about it?

**Then you do not need to go to court.** The company will win the lawsuit, also known as a default judgment. The company will not have to show records to prove how much you owe.

### Will I be arrested if I do not show up for court?

**No.** But, if you get a subpoena telling you to appear in court, you must go. A subpoena is different from the Summons.

### Who We Are

Legal Aid Society is Tennessee's largest non-profit law firm. Our mission is to enforce, advance, and defend the legal rights of low income and vulnerable people to obtain the basic necessities of life.

### Contact Us

We have offices in Clarksville, Columbia, Cookeville, Gallatin, Murfreesboro, Nashville, Oak Ridge, and Tullahoma.

**Call 1-800-238-1443  
for free assistance**

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OF MIDDLE TENNESSEE AND THE CUMBERLANDS

The information provided today does not, and is not intended to, constitute legal advice. If you have a legal problem, please call a private attorney or call your local Legal Aid Society of Middle Tennessee office at 1-800-238-1443.

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Consumer Protection

Are You Being Sued By A Company That Says You Owe Them Money?

Does The Court Paper Say You Are Being Sued On A "Sworn Account"?

If so, this booklet may help you



LEGAL AID SOCIETY  
OF MIDDLE TENNESSEE AND THE CUMBERLANDS

## What is a Sworn Account?

The law lets some businesses sue you without proving in court that you owe the debt. A lawsuit with a signed paper from the company you may owe is a **Sworn Account**.

STATE OF TENNESSEE, COUNTY OF DAVIDSON

To Any Lawful Officer to Execute and Return:

Summon John Lee Smith

to appear before the Metropolitan General Sessions Court of Davidson County, Tennessee, to be held in Courtroom 5D, Justice A.A. Birch Building, 408 Second Avenue North, Nashville, Tennessee, on January 4, 2007, at 8:45 a.m., then and there to answer in a civil action brought by the Plaintiff(s) for:

ABC Credit Company for payment not received in the amount of \$6,085.43 together with interest and attorney fees, if applicable, as evidenced by the Sworn Account attached hereto & the cost of this action less any payments received & expenses as they continue to accrue.

under \$ 25,000.00 Dollars

ABC CREDIT COMPANY  
V.  
JOHN LEE SMITH

AFFIDAVIT OF DEBT AND VERIFIED BILL OF PARTICULARS

The undersigned being first duly sworn according to law, deposes and says that she is familiar with the policies and practices, as well as the books and records of the Plaintiff with respect to the matters stated herein, and based on information and belief states as follows:

### Why should I ask the company for proof that I owe them money?



- It may save you from having a judgment taken against you.



- The company may have lost the paperwork.



- The paperwork may show that the company has waited too long to sue you.

If you disagree you owe the money, want to make the company prove you owe the money, or believe the company waited too long to sue:



**Step 1:** File a Sworn Denial: A copy of the Sworn Denial paperwork is attached to this booklet.



**Step 2:** Go to the hearing on the court date.

If the company waited too long to file, You can ask the judge to dismiss the case. Here is information about time deadlines for specific debts below:



**Credit Card Bills:** If the court paper is filed more than 6 years after you last paid or promised to pay the bill, the company waited too long to sue.



**Other Accounts (Not usually credit cards):** If the company says you owe money for a different kind of account, then the company could have less than 6 years to sue.

**Example:** If you purchase a vehicle on credit and stop paying, the court papers must be filed within 4 years from the date you last paid or promised to pay.

**What if you ask for proof and the company doesn't have it?** Then the lawsuit should be dropped.

At the hearing the company will have to prove how much you owe. **If the company cannot prove how much you owe:**

- The company should drop the lawsuit
- The judge will dismiss the case

**Note:** Always talk to a lawyer if you have questions about whether you owe the debt or if the company can sue you.

**Warning!** Before the hearing, the company's lawyer may ask you to promise to pay the debt. You do not have to talk to their lawyer in the hallway. Do not make a new promise if you:

- Want them to have to prove you owe the money
- Think you don't owe that much, or
- Think it has waited too long to file the court papers

**Important:** If you make a new payment or promise to pay, then the creditor could get 6 more years to collect. Lawyers for creditors often want you to agree to bigger payments than you can afford.

### How to file your Sworn Denial

- Fill out the paper that came with this brochure and sign the paperwork before a Notary. If you cannot find a Notary, go to the Court Clerk's office. They will have a Notary.
- File the paper at the Clerk's office in the court where you were sued.
- Mail a copy of the Sworn Denial to the company's attorney and keep a copy for yourself. **Ask the Court Clerk's office to stamp your copy with the date it was filed.**

### What happens after I file the Sworn Denial?

Go to court on the hearing date and tell the judge you want the company to prove you owe the debt.

Ask for:

- **The Contract you signed.** The contract should include everything you agreed to, like late fees and interest rates.
- **All the bills they sent to you.** Make sure it shows all the payments you made. Make sure the late fees and interest charges are correct.

If you think the lawyer did not give you all the papers you asked for, tell the judge and they can order the lawyer to give you the papers you need.

### What should I do if the company gets a judgment against me?



A **judgment** is a court decision that says you owe a certain amount of money to the company.

<b>State of Tennessee</b>	<b>Court</b> (Must Be Completed)	<b>County</b> (Must Be Completed)
<b>Sworn Denial</b> (Sworn Denial on Account)		<b>File No.</b> _____ (Must Be Completed)  <b>Division</b> _____ (Large Counties Only)
<b>Plaintiff/Creditor</b> _____ (Name: First, Middle, Last of person/company that filed lawsuit)		
<b>Defendant/Debtor</b> _____ (Name: First, Middle, Last of the other person)		

**You can use this form if you disagree with any of the Plaintiff's claims.  
You should file the original with the court listed above by the court date.**

**You may have to pay a filing fee. Can't afford the fee? Ask the court clerk for a paper called a Request to Postpone Filing Fees and Order (Uniform Civil Affidavit of Indigency). Or go on the internet to [www.tncourts.gov](http://www.tncourts.gov) or [www.justiceforalltn.com](http://www.justiceforalltn.com) to get the form.**

**Important!** If you do not file this form, you can tell the judge that you disagree. But it is generally better to file the form to protect your rights.

I swear the following:

- ① I am the Defendant /Debtor in the case listed above.
- ② I believe I do not owe what the Plaintiff/Creditor is asking for, as described in the Complaint.
- ③ I understand that by making this statement, there may be a trial. Defendant submits this Sworn Denial as allowed by T.C.A. § 24-5-107 and demands strict proof thereof.
- ④ Please briefly list some of your reasons for your denial. You can raise additional defenses at the hearing. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Read below then sign:**

I declare under penalty of perjury under the laws of the State of Tennessee that:

- The information on this form is true to the best of my knowledge.

Defendant:  \_\_\_\_\_ Date: \_\_\_\_\_

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Name

Notary Public/Deputy Clerk in and for \_\_\_\_\_ County, Tennessee.

My Commission expires on \_\_\_\_\_.

**IMPORTANT!**

Take any proof that supports your case to the hearing, including: witnesses, photos, papers, receipts, etc. The court will not accept written statements from witnesses. The person must go to court in person. If you think a witness may not want to go to court, ask the clerk for subpoena forms. Complete the subpoena as soon as possible so the sheriff can serve them before court.

The court and clerks are not allowed to give you legal advice, even if you don't have a lawyer. This form is a public record. It is not legal advice. The law may change and it is best to consult with a lawyer.

Bring the original and 2 copies of this form to the Court Clerk to be date stamped.  
Give the original to the Court Clerk.  
Bring a stamped envelope addressed for each plaintiff to the Court Clerk. Mail one copy to the lawyer or if there is no lawyer, mail it to the plaintiff or company that sued you. Keep one copy for yourself.

**Certificate of Service**

(How I gave this paper to the Plaintiff/Creditor)

I certify that I (check one box)

- hand delivered or
- mailed by first-class mail, properly addressed, a true and correct copy of this paper to the person listed below at the address below:

\_\_\_\_\_  
Name of Who You Are Giving This To (The creditor's lawyer or the plaintiff/creditor if no lawyer)

\_\_\_\_\_  
Address of the Lawyer or the Creditor (Include City, State and Zip Code)

on \_\_\_\_\_  
(Date you mailed/hand-delivered the copy)

▶ \_\_\_\_\_  
Sign Your Name