

# DEBT COLLECTION CASES: DECIDING WHETHER TO FILE AN ANSWER\*

## IF YOU FILE AN ANSWER

- You have time to consider your options:
  - Preparing to defend yourself at trial (for example, collecting evidence )
  - Coming up with the money you owe.
  - Arranging to pay in installments or lump sum.
  - Filing for bankruptcy.
- You can tell the judge your side of the story.
- You will go through the court process of:
  - Preparing and filing court papers.
  - Paying court fees (unless they are waived).
  - Going to a court hearing at least 1-2 times.
  - Waiting up to a year for the case to finish.
- You can raise “defenses” in your Answer and at trial that may lower or cancel the debt entirely.

***If you win:*** The case is “dismissed,” you do not owe money, and the case should not affect your credit.

***If you lose:*** Plaintiff can get a “Judgment” (a Court order) against you for the money it asked for, its costs, and, usually, interest and its attorney’s fees.

## IF YOU DO NOT FILE AN ANSWER

- If the Plaintiff can show you owe the money, the Court will order a “Default Judgment” (a Court Order) against you. This means you lose the case, can no longer file an Answer or defend yourself at a trial in front of a Judge.
- The Default Judgment includes the money Plaintiff requested, its court costs, and, in most cases, interest and its attorney’s fees.
  - The total amount will most likely be less than if you filed an Answer and lost the case because the process is shorter. There should be less court costs, interest may be at a lower rate sooner, and attorneys’ fees will be less because the Plaintiff’s attorney did less work.
- You will not have to file papers, pay court fees, go to Court hearings, or go through a long court process.
- The case is over quickly; usually 1-2 months.

## AFTER THE JUDGMENT

- Plaintiff can add 10% interest per year (amt. owed x .0002739/day) on the Judgment amount until you pay.
- Plaintiff can collect on the Judgment by taking money from your paycheck (up to 25%), by preventing you from selling or refinancing your home without paying the debt, and/or by taking money from your bank accounts.
- Plaintiff **CANNOT** collect if you do not have income, property, or money in the bank, or if your only income is from CalWorks, SSI/SSP, GR/GA, or workers’ compensation. Plaintiff is also limited, or a judge may prevent Plaintiff from taking, money from some other types of income as well. If Plaintiff tries to take money from you, you can file a Claim of Exemption form to stop the collection or reduce the amount that Plaintiff can take. You may have to go to court and the Judge decides if Plaintiff can collect, and if so, how much Plaintiff can take.
- A Judgment is valid for at least 10 years (it can be extended) and can stay on your credit report for 7 years.

\* You may file other types of Responses, which are not covered in this handout. You should seek legal assistance to discuss the other options.