

ARBITRATION OVERVIEW

If you've received a summons and complaint, and this is your first time in court as a defendant, choose ONE of the three options listed below BEFORE speaking with the Judge:

1. ASK FOR TIME TO TALK TO A LAWYER: If you would like to talk to a lawyer, the Judge will give you a short continuance (more time) and a court order with a new court date so you can decide whether you agree or disagree with Plaintiff's complaint.
2. AGREE with the Plaintiff's claim: If you agree that you owe the amount that the Plaintiff claims, you can enter into an "AGREED JUDGMENT ORDER."

What is a JUDGMENT?

A JUDGMENT is a legal finding that you owe the amount the Plaintiff claims.

Additionally, you may also have to pay for the Plaintiff's court costs (from \$284-\$334 most cases) and attorney's fees (if your agreement provided for attorney's fees upon default). A JUDGMENT will affect your credit rating and the amount you owe will increase by 9% each year until it is paid in full.

What happens if I choose an AGREED JUDGMENT ORDER?

Unless you both agree to something different, the Plaintiff can collect all the money you owe right away. For example, the Plaintiff can ask the court to take the money out of your bank account or to take 15% of your paycheck each pay period and give it directly to them until the whole amount is paid. If the Plaintiff agrees to an INSTALLMENT PAYMENT PLAN instead, you can pay them a set amount each month until the total Judgement is paid. However, if you agree to an INSTALLMENT PLAN but don't make all of your payments on time, the Plaintiff can try to collect the rest of the money you owe all at once.

When and where do I make the AGREEMENT?

To discuss an AGREED JUDGMENT or an INSTALLMENT PAYMENT PLAN with the Plaintiff, please call the Plaintiff or their attorney before coming to court. The name and address are in the lower left-hand corner of the documents you received. If you choose an AGREED JUDGMENT, you should sign a COURT ORDER that states what AGREEMENT you have reached.

3. DISAGREE with the Plaintiff's claim: If you disagree with Plaintiff's claim or disagree with the amount the Plaintiff claims you owe, you will need to complete and file an APPEARANCE and an ANSWER. The case will then be scheduled for an ARBITRATION HEARING after a period of DISCOVERY.

What is an APPEARANCE?

An APPEARANCE is a form that you file to tell the court and the other parties that you are participating in the case. This form must be filed with the Clerk to confirm that you will appear for trial. The filing fee is \$209.00. If you are indigent (unable to pay due to your poverty status), you can request to file an appearance without paying the fee. To do so, you will need to first go to the Circuit Clerk's office or website to obtain the FEE WAIVER PETITION forms. These forms will need to be filed in order to set up a hearing where the Judge will decide if you can file without paying the fee.

What is an ANSWER?

The ANSWER is your written response to the claims in the Plaintiff's complaint. It must admit or deny each of the claims. (typically, numbered paragraphs). You should also include all defenses in your ANSWER.

If you think you should not be a defendant in the case, you will need to file a MOTION asking the Court to DISMISS you from the case.

What is DISCOVERY?

DISCOVERY is the method that each side uses to prepare for the hearing or trial. It can be in the form of written questions, notices to produce, or depositions (oral questions and answers taken before a court reporter). You must respond to any requests you receive, and you may also send your own requests.

What is the procedure for an ARBITRATION HEARING?

If you have filed your APPEARANCE and ANSWER, you will participate in an ARBITRATION HEARING before 3 experienced attorneys on a date set by a court order.

SUPREME COURT RULE 90(C) allows you to use certain documents at the hearing if you serve copies to the other side more than 30 days prior to the hearing.

If either side disagrees with the ARBITRATION AWARD, a REJECTION NOTICE must be filed within 30 days of the AWARD. The REJECTION FEE is \$200.00 for less than \$30,000.00 and \$500.00 for above \$30,000.00. A court date will be set in order to establish a TRIAL DATE. If NO REJECTION is filed, the ARBITRATION AWARD will become the JUDGMENT.