

## **Dealing With the Small Claims Lawsuit Through Bankruptcy**

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Over the last few months in my bankruptcy consultations I have been noticing a pretty steady increase in the number of small claims lawsuits that people are getting served with from credit card companies. I don't know if this is an actual trend on the part of the credit card companies or if I just happen to be meeting with people who happen to be dealing with the issue. Either way a lawsuit, even a small claims lawsuit, must be dealt with or you could face garnishment of your wages and/or bank account.

### **Small Claims Court in Arizona**

In Arizona, in order for a case to be brought in small claims court the total amount in dispute must be less than \$2,500. Further, in small claims court the procedural rules are relaxed somewhat to better facilitate people representing themselves. In fact, attorneys are not allowed in small claims court in Arizona unless all parties agree (and why in the world would anyone agree to that!).

In the end, if you get a judgment against you, even in small claims court, the creditor will be able to garnish your wages or even take money out of your bank account.

### **Settlement or Bankruptcy?**

When you get served with a small claims lawsuit you will need to decide how it is you are going to deal with it. You really have three options: (1) you can file a response (called an Answer) to the complaint that was served on you. This option should be utilized if you dispute the lawsuit. (2) You can contact the creditor and attempt to settle the debt. Depending on how much the debt is and who the creditor is, you may be able to settle the lawsuit for less than half of what is owed. Usually this requires a lump sum – meaning that if you offer \$1,000 on a \$2,500 debt, and the creditor agrees, you are likely going to be required to pay that amount immediately.

Finally, (3), you can file for bankruptcy. Bankruptcy will not only stop the lawsuit from progressing but will discharge/eliminate the underlying debt completely. If your only issue is a \$2,500 I would not recommend bankruptcy. The legal and filing fees along are around \$2,000. But if the small claims lawsuit is part of a larger debt problem – which it usually is – then it is worth your time to consult with a bankruptcy attorney about your bankruptcy options.

I offer free bankruptcy consultations for this purpose; to allow you to understand what your options are and to help you in determining which is the best way to handle your debt problems.

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