



What to Do If You Are Being Sued

Slapped with a lawsuit? Here's how to proceed, according to experts.



If you're facing a lawsuit, try to avoid your natural impulse to get nervous and panic.

By Geoff Williams

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You will probably go through your entire life without being sued. There were 278,442 civil case filings in the U.S. in 2012, according to the latest government data, but it isn't exactly a rite of passage for most people. You probably weren't taught in school how to handle a court summons, and your parents probably never sat you down and talked about how someone might try, through legal channels, to take away everything you have.

But every once in a while, it happens. Kat Garcia, 32, who lives in Los Angeles and works in public relations at the National Notary Association, was sued by her ex-fiance in 2010. She says he slapped her with a civil lawsuit for malicious prosecution, emotional distress and defamation.

Garcia describes being sued as "horrible." "It's emotionally, physically and financially draining," she says. "Despite our 'innocent until proven guilty' system, you can be 100 percent innocent and still be sued to the brink of near bankruptcy for frivolous reasons by malicious individuals."

[See: [7 Strange Behaviors That Can Get You Fined.](#)]

So if you are ever sued, here's what you should remember.

No need for flop sweat. You are human, which means you will panic unless you have nerves of steel or you're facing a very small lawsuit. But your imagination shouldn't wander to the worst-case scenarios: wages garnished for life, prison time, all of your Facebook friends "unfriending" you.

For starters, "lawsuits are inherently slow," says Zachary Schorr, lead trial attorney at Schorr Law, based in Los Angeles. "The legal system is designed to sift through claims in an orderly way."

Secondly, "just because you are getting sued does not mean that the other person is right or that you are necessarily going to lose," Schorr says.

But don't go the other way and ignore the summons. Then the court case will go on as scheduled, and everything bad that you assumed might happen probably will.

Consider finding a lawyer. It may not be cost-effective if you're being sued in small claims court, as Jacob Volkmar, a 27-year-old grant writer in St. Louis, discovered late last year. He was living in a room in a residence without a contract and says his landlady often harassed him and his visitors. After eight months, he moved out without giving 30 days' notice. The rent was \$600 a month, but she sued him for \$800.

"I reached out to an attorney, but the attorney required a retainer and \$250 an hour," Volkmar says. He declined, realizing that paying a fortune to avoid paying a small fortune wasn't a wise decision.

Small claims court, as you probably know, deals with relatively small sums of money. Every state is different. You can sue someone in Ohio for no more than \$3,000. In Arkansas, it's \$5,000, and in Texas, \$10,000. Tennessee's limit is the highest at \$25,000, but you'll also probably get your case heard quickly – in weeks or months, not years.

If you do need a lawyer, first check with friends and family for recommendations, advises Herb Auger, a personal injury attorney at Auger & Auger, which has five offices in North Carolina. Failing that, Auger recommends reading attorney reviews online and looking at their websites, then calling some that interest you with questions.

He says you'll probably know within the first five minutes if the attorney's firm has the chops to handle your case. Auger adds, "I always recommend that they speak with the lawyer before making the decision, not their assistant."

If you hire an attorney, make sure you understand how the attorney will bill you and what the rates are, whether fixed or hourly, Auger says.

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Garcia also recommends that if you hire a lawyer, let him or her do the work. In other words: "Do not contact the plaintiff for any reason," she says.

Know the law. If you are going solo in small claims court, as many people do, Auger suggests reading up about the laws surrounding your situation. After all, if someone is suing you for damages resulting from a fender bender, get familiar with the laws regarding accidents.

"Judges become very frustrated when the pro se party does not know the law and argues the case on the personal beliefs or what the law should be," Auger says. (Pro se means someone without a lawyer.)

Tell a story. Don't worry about who is right or wrong, says Philip Anthony, CEO of DecisionQuest, a trial

consulting firm with 10 offices throughout the country and headquarters in Los Angeles. That may sound crazy, but Anthony points out that the decision is up to the judge.

"Your job is to explain it to the judge in the English language ... in a cogent way," Anthony says, adding that you must let the facts speak for themselves.

"Think of it as though you're leaning over your fence, and your neighbor asks what the lawsuit is all about, and you have 10 minutes to tell them from beginning to end what happened. That should be your goal in small claims court," Anthony says.

If you have documentation such as emails or photos that support your story, all the better, Anthony adds.

If it's a civil court case, you probably won't go to court. There will be no jury deciding your fate. That's the good news.

"The old Perry Mason image that people have of their day in court is largely a thing of the past, unless, of course, it's a criminal matter. But if it's a civil case, it'll take years for it to happen, if ever," Anthony says.

Schorr repeats that sentiment. "The slowness of the legal system encourages settlement because time will take the wind out of many plaintiffs' claims," he says.

Phew. The bad news? If your attorney can't persuade the plaintiff to drop the charges, you'll settle. And if you can't afford to retain a lawyer and settle, you may take a financial bath anyway.

[See: [Your 10-Step Financial Recovery Plan.](#)]

"Bankruptcy is the only thing that stops the process," Anthony says.

Think of the song Annie sang. Losing a case doesn't mean there is no tomorrow. Volkmar lost his case but was ordered to pay \$450, not \$800, since his landlady didn't return a security deposit. (Volkmar still hasn't paid up, however, and has instead filed a complaint with the Office of Fair Housing and Equal Opportunity.)

And, of course, you can win but still lose. Garcia's ex-finance sued her for half a million dollars, and she spent about a year fighting his charges until the inevitable settlement two weeks before going to trial. As it turned out, she didn't end up owing her ex any money, but she spent almost six figures on her legal defense.

Garcia sounds happy enough about her outcome, however. "The good news is that I didn't pay him a penny, he didn't win, and I'm about halfway through repaying my debt," she says.

Still, that's a heck of a price to pay for winning. Small wonder nobody wants to actually lose a lawsuit.

Corrected on Feb 24, 2014: A previous version of this story misidentified the law firm Auger & Auger.

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