

WHAT HAPPENS AT THE TRIAL?

When clients ask “What happens at the trial?,” they are really asking two different things:

1. What are the possible outcomes of the trial?, and
2. What takes place at the trial (in other words, “How do trials work”)?

POSSIBLE OUTCOMES

There are 4 possible outcomes for your trial: (1) You win the case; (2) You lose the case; (3) The judge “takes your case under advisement,” or (4) Your case gets reset for another day. Each possibility is discussed below.

You win the case: If you win the case, then you don’t have to pay the debt. There are a few different ways, procedurally, that you could win the case (nonsuit, dismissal, take nothing judgment). But no matter how you win the case, it counts as a win, and you don’t have to pay the debt.

You lose the case: If you lose the case, the plaintiff gets a judgment against you. The judgment can, and usually does, include interest, court costs, and legal fees, on top of the debt amount. So if you lose the case and get a judgment, the judgment will probably be for more than the amount of the original debt.

The judge “takes your case under advisement”: Judges often take cases “under advisement.” This means that the judge wants time to think about it and will make a decision at a later date. Once the judge makes a decision, he or she will either dismiss the case or give the creditor a judgment against you.

Reset: It is very common for cases to get reset for a later date. So we go to court, ready for your trial, and instead your case gets reset for a later date.

HOW TRIALS WORK

Trials in “debt cases” tend to be very short. Most of the time, there is no jury (the case is tried to the judge), and there are no witnesses either. Usually, the only issue in “debt cases” is whether or not the creditor’s documentation is “good enough.”

Documentation: Debt cases involve documentation, and the cases are won or lost based on the creditor’s documentation.

If the creditor has a complete set of documentation, and they succeed in getting the documentation “admitted into evidence,” then they will probably win the case and get a judgment against you.

If, on the other hand, the creditor is lacking some piece of documentation, or if we succeed in getting some or all of their documentation “excluded from evidence,” then your case will probably be dismissed (which means you won the case).

The Plaintiff Puts On Its Case First: The plaintiff goes first. In most cases, the plaintiff attempts to “introduce into evidence” all of the account documentation they provided to us ahead of time.

We Object: We object when the plaintiff attempts to introduce the account documentation into evidence. We argue that some or all of the documentation is “inadmissible” for some reason. Depending on the circumstances, we may be able to get some or all of the account documentation “excluded from evidence” (kept out of court).

Only Admissible Evidence Counts: In deciding your case, the judge is only allowed to consider the account documentation that is “admitted into evidence.” So whatever documentation we succeed in getting excluded from evidence cannot be considered by the judge.

We Usually Don’t “Put On a Case”: In most cases, we don’t put on a case of our own (we don’t introduce any evidence). Instead, we argue that the creditor does not have enough evidence to prove its case. In most cases, our client actually owes the money. So we don’t have any evidence to introduce that might help in getting the lawsuit dismissed. In other words, in most cases there is no evidence that our client **does not** owe the money. So there is no evidence for us to put on.

Most of Our Clients Don’t Need to Go To Court: In most cases, we don’t want our clients to go to court. Why? Because if you were to go to court, the plaintiff could call you as a witness and ask you if you owe the money. If you tell the truth and admit that you owe the money, then you will have proven the plaintiff’s case for them. So your testimony—that you owed the money—will override any problems with the creditor’s documentation. And it is for that reason that we usually instruct our clients NOT to attend their court hearings.

What Happens After the Trial?: Once we get the judge’s decision, we will let you know the outcome. If we get your case dismissed (win), then everything is over. If you get a judgment against you (lose), then you need to get in touch with your case manager about settling the judgment.

Think over what you want to do and then get in touch with your case manager to discuss your options.