

## What To Expect If You're Getting Sued

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Being served with a lawsuit is often an unexpected and nerve-racking experience. If you have never been sued before, you may be at a complete loss for what you are required to do next, your deadlines, and your options moving forward.



### The Summons and The Pleading

When you are sued, you will be served with at least two documents: the Summons and the Pleading (which is sometimes called a Complaint or Petition). The Summons is designed to notify the respondent or defendant (i.e., the person being sued) that a lawsuit is pending against them and that they must respond to the Pleading within a specific timeframe. The Pleading contains the facts and claims underlying the petitioner or plaintiff's (i.e., the person suing) lawsuit.

After being served with the Summons and Pleading, the respondent is required to file a response within 30 days of the date they were served. This response can take several forms, but the most common are an Answer (or an Objection depending on the type of lawsuit), a Demurrer, and a Motion to Strike.

### Laying The Groundwork for Your Defense

An Answer is the respondent's first opportunity to lay the groundwork of their defense. In the Answer, the respondent typically denies the allegations of the Pleading and then states any applicable affirmative defenses. An affirmative defense is a legal defense to the Pleading that, if true, may defeat the petitioner's claims, even if the allegations in the Pleading are true. For example, if Party A sues Party B for breaching a contract that Party B signed under duress, Party B would argue that the contract is unenforceable because it was signed while in a state of duress. And depending on the type of lawsuit, the respondent may be required to file a verified Answer (i.e., an Answer that the respondent verifies under penalty of perjury as true and correct) that admits or denies every single allegation in the Pleading.



### **I Object! (aka Motion To Strike, aka Demurrer)**

Instead of filing an Answer, the respondent can file a Demurrer and/or a Motion to Strike. A Demurrer is an objection to the Pleading on the grounds that the Pleading is legally insufficient and should therefore be dismissed. There are several grounds for bringing a Demurrer, including, but not limited to, when the Pleading fails to state facts constituting a claim, when the Pleading is uncertain, and when the statute of limitations period expired before the Pleading was filed (i.e., the petitioner filed the lawsuit too late).

A Motion to Strike is used to remove (or "strike") portions of the Pleading from the record because they are irrelevant, false, or improper. While a Demurrer attacks entire claims, a Motion to Strike is much more precise: It can be used to strike individual sentences and even single words. A common basis for a Motion to Strike is when the petitioner, without legal grounds for doing so, requests that the respondent be ordered to pay the petitioner's attorneys' fees. In such a case, requesting attorneys' fees without grounds to do so makes the request improper and thus subject to a Motion to Strike.

The timeframes given above are general, and they can differ depending on the method of service of the Summons and Pleading. There are also several other types of responses that you may be able to file in response to the Pleading (e.g., Motion to Compel Arbitration, Motion to Dismiss, Motion to Quash, etc.).

When being sued, there are important steps and formatting requirements to follow before filing a response to the Pleading. It is therefore important that you speak with an attorney about the deadlines specific to you, and what the best option is for your response to the Pleading.



### **We look forward to serving you & wish you the best**

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