



NCSAC SERVICES: Let's talk legal with Bill Reid

Topic: Debt



Debt: If You Are the Creditor

- If someone is owed money by another person, they may file a lawsuit through the civil court system. If the court agrees, it will issue a judgment ordering the other person to pay. If the amount owed is \$35,000 or less, a claim may be filed in small claims court.
- The required forms are on the court's website in fillable form, and most people are able to represent themselves, either by reading the rules or with a reasonable amount of background assistance.
- There is a filing fee, but it may be waived for low income individuals.

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- There are higher levels of court for greater amounts owed. However, the forms are not as easy to use, the filing fees are higher, and most people are not able to represent themselves and should therefore be formally represented.
- At any court level, a claim must be filed within two years of when the debt arose, and in some cases notice of the claim must be served prior to that.

Debt: If You Are the Creditor

- If someone is successful at court and obtains a judgment against another party, the court does not guarantee that payment will be made, and does not make the payment itself. The court offers enforcement procedures, such as hearings at which the debtor must discuss payment terms.
- However, a judgment may never be paid if the debtor cannot be found, or has minimal assets or income.

Debt: If You Are the Debtor

- On the other hand, if someone is the debtor, they should not expect the creditor to give up easily. The creditor will likely utilize the court's enforcement procedures, including the hearings we mentioned, as well as garnishment of income and bank accounts and possibly seizure of assets.
- The creditor may also hire a collection agency to pursue the debtor for payment, and may record the debt against the debtor's credit.

Debt: If You Are the Debtor

- Sometimes, a party who claims that someone else owes them money will hire a lawyer, paralegal or collection agency to contact the other person before filing a lawsuit, or instead of ever doing so.
- The party making the claim may also record it against the other person's credit, without having obtained a judgment first.

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- If someone is contacted about a debt, it's good to seek help in responding. There are rules that lawyers, paralegals and collection agencies must follow, and if they overstep those boundaries, there are ways to file complaints about them.
- The ideal outcome at this stage is to negotiate the amount owed, and to agree on payment terms.

Debt: False Claim

- Sometimes, a party will make a claim that is not justified at all, or is exaggerated. If someone is contacted about such a claim, they will need to take a firm position about what they do or do not owe, and again it's best to have assistance in doing so.
- If a false claim is recorded against the person's credit, the credit reporting agencies provide a dispute mechanism through which the person the claim is being made against can tell the truth, in the hope that the credit reporting agency will remove the false claim from their record.

FAMILY LAW: Access and Support

A parent that the child doesn't live with may be granted access to the child, and must pay child support, in specific amounts set by the government. Access may be on specific days and times, or it may be left to be agreed between the parties each time it takes place – for example, “reasonable access on reasonable notice”. The specific amount of child support to be paid depends on what percentage of a week the child lives with each parent, which province the child lives in, how many children the same set of parents have, and the incomes of the parents.

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Debt: Questions?

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