



What if You're Sued?

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As the complexity of our society and the laws governing it increase, the probability of finding yourself involved, to some degree, in a lawsuit also increases. For those people who own and manage their own businesses, that probability is even greater. What should you do if you're served with notice of a lawsuit filed against you or your business?

The most important advice you can hear is not to panic. Most lawsuits are resolved short of trial and most claims are compromised in a manner that is reasonable for the parties involved. It is important to remain objective about the lawsuit and not let emotions control your actions.

As the next step, you should consult with your attorney as soon as possible. In a typical lawsuit, the defendant is given 45 days to file an answer to the plaintiff's complaint. A default judgment may be entered against the defendant if a timely answer isn't filed, so you need to let your attorney review the complaint and have time to prepare an answer.

Your attorney needs to have as much factual information as possible when reviewing the complaint, because you must admit or deny each individual allegation contained in the complaint. Allegations should not be denied if they are true. You can agree on certain factual allegations while coming to a different legal conclusion about their legal effect on the rights and obligations of the parties. One of your most important jobs throughout the proceedings will be to gather complete and accurate information about the circumstances that led to the complaint. Your attorney will analyze the facts and raise the appropriate legal defenses in a written answer. You may also counterclaim against the plaintiff if you have a claim arising from a related transaction.

Once the initial pleadings are filed, the case moves into a discovery phase. Through depositions, interrogatories, and other discovery tools, the parties gather information from each other, so they can accurately judge the merits of the case. Quite often some compelling factual information uncovered will help the parties determine if they have a strong case or a weak case - and whether they should compromise their positions. Ultimately, if the case is not settled, it will be decided after a hearing before the judge (a bench trial) or before a jury in a jury trial.

At each step of the proceedings, you should honestly evaluate your position in a case and the costs of defending the claim and proceeding to trial. Complicated cases may take years and thousands of dollars to litigate. If an unreasonable claim is maintained, you may have no choice but to continue the case to trial. If there are legitimate, honest disputes about the obligations of the parties, reasonable individuals can often settle the differences out of court. Finally, always communicate your expectations to your attorney and what your objectives are in the litigation. It is important for you to understand what direction the case will take and what can and cannot realistically be accomplished.

