

Filing a Lawsuit

A lawsuit is filed in the District Court of Maryland. After the suit is filed with the clerk of the Court, this same suit is mailed back to the attorney's office to allow for service of process. The suit will have a summons attached to it with two dates on the summons.

The two dates are the last date upon which the person can be served, and the second date would be the trial date-only if the person is served. In most cases, the Court gives about 30 days to get the person served, but the trial date may be another 60 days or more after that date.

Service of process is usually made by a private process server or can be accomplished by certified mail. In either case, either the actual person who is sued must be handed the lawsuit (no one needs to sign) or someone else that resides with that person. The process server must be able to prove that the alternative person that is served does reside in that house. In these cases, the process server must ask that person their name, their relationship to the defendant(s), and if they reside in that house.

After the defendant is served, the process server then files his Affidavit with the Court stating that service of process was made according to the Court rules. Nothing more can be done, until the trial date(which can be 60 days away).

If the time to serve the person has expired, or the person to be served is not home, moved, or cannot (at that time) be located, a re-issue of the summons is filed with the Court. The lawsuit is not re-filed, just a request to reissue the summons with new dates to have the person served, and a new trial date. Therefore, if the person to be served is not served the first time, the trial date can be beyond 4 months from the date when the lawsuit was filed.

With the suit papers, the defendant is given a document that allows him/her to file a defense to the claim. This defense can be anything as it does not need to be supported by any proof(at that time) and must be mailed back to the Court. If the Court receives by mail a defense to the claim, the scheduled trial date is then postponed and all parties are notified of a new trial date-which is then called a "trial on the merits." This date will be beyond the 60 days of the original trial date.

If the defendant does not file any prior written defense to the lawsuit, and does not appear at the first scheduled trial date, the Court can award a "judgment by affidavit." This means that based solely on the documents submitted by the attorney when the suit was filed, the Court finds sufficient evidence without the need for anyone to testify that a judgment should be entered against the defendant for the amount of money requested in the lawsuit, along with court costs.

Unfortunately, some defendants do not file prior written defense, but simply appear on this “affidavit judgment” date. If that happens, the Court clerk will explain to them that their case is not on the trial docket, as they did not follow the court rules, and they must remain in the courthouse until a Judge is assigned to see them. Then they will be taken to an open Court and again a judge will ask them if they owe the money or have a defense to the lawsuit. If they say they do not owe the money, the court will then have the clerk mail out a new trial date to all parties and everyone then needs to appear at the new trial date to present testimony as to why this money is owed. If the defendant tells the Judge that they do owe the money, a Judgment is entered against them.

Notices about whether or not a judgment or a defense are mailed to the attorney usually about a week later.

A defendant has thirty (30) days to appeal a judgment to the Circuit Court, even if they never filed a prior defense to the claim. The Court rules do allow for a wage attachment to be filed ten (10) days after a judgment, and a lien on the property can be filed as soon as the judgment is entered-no need to wait the 30 days.

The above being said, it is usually 90 days or more after a lawsuit is filed before a judgment is entered by the Court, provided the defendant is served.