

How do I defend against a credit card collection case in Massachusetts?

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The plaintiffs/creditors win the large majority of their suits to collect credit card balances by obtaining a default judgment. It means that they win because the defendant does not defend against the action. It is similar to winning by forfeit. However, there are times when a person decides to defend a collection action. In that case, the person is typically a consumer with little or no legal background or experience in litigation or the court room. The debt collectors are used to this and gear their litigation strategy on speed and capitalizing on their opponent's lack of experience. If you are such a consumer, this post will provide a bit of what you need to know to defend against the suit.

The first task is to avoid default in the early stages of the case. For whatever reason, people without experience with litigation seem to think that every date that appears on legal-type documents indicates the date they have to appear in court. The truth is that the date may be the date you have to appear or it may be a deadline for something else, like the deadline to file a responsive pleading. It depends on what court you are being sued in, and almost always, the very document you receive tells you the answer, so read it. You must either show up, if applicable, or file what you need to, if applicable, to avoid default. If you are unsure after carefully reading the law suit, to learn the answer, you either must consult a competent attorney or visit your local law library and do some research.

Even if you have a good argument to defend against the collection case substantively, you can still lose by default, so to speak, by not knowing how to present the substance that you have. If you do have to show up, you can fail by not preparing a good argument. A good argument will need some preparation and/or support. If you appear and make statements that you could have supported but did not, you will probably not prevail. The other problem is failing to present an argument that is on point and articulated well. For this, you will likely need to solicit others to listen to your argument and obtain honest feedback. The argument may sound good to you, but it may be off point, or there may be something to it, but it is being presented so poorly that the decision maker cannot parse through the presentation to find the real substance. Understand that it is YOU that must decide and present what facts and/or legal arguments really matter; do not expect that you can just tell your story and the clerk or judge is going to take it from there. From experience in much court watching, this author can tell you that many arguments that are raised by consumers are simply off-point and are not considered or are presented so poorly that the decision maker has trouble discerning what the argument really is.

If you did not have to appear but had to file a responsive pleading, the next stage of the litigation process is called Discovery. Here, you must take the same steps you took before; either obtain advice from a competent attorney or make another trip to the local law library. This step is typically more complicated because Discovery is a broad topic. You will likely have to respond to Interrogatories, a Request for the Production of Documents, and Requests for Admission. In a collection case, it is not just important to know how to respond, but how to use the Discovery process to set up the case for your win. To really use the Discovery process to your best advantage, now you need to dig even deeper into specifically how to defend against a collection action.

Eventually, the case will be decided. How you conducted yourself prior to the decision could make the difference between winning and losing. In the event that you want to engage an attorney to defend against a law suit, including defending a credit card collection case or the like, feel free to give this office a call.

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