



How Do I Negotiate a Settlement in a Debt Collection Case?

I AM BEING SUED. IS IT TOO LATE TO WORK OUT A SETTLEMENT AGREEMENT?

No. You can agree to settle a case at any time before the judge enters a final decision.

WHAT ARE THE ADVANTAGES OF SETTLING A CASE?

- The settlement amount is generally less than the amount being claimed in the complaint.
- It saves you time because otherwise you will probably have to return to court numerous times before the case is resolved.
- You can negotiate to pay out your debt over time.
- You can avoid losing the case and having a judgment entered against you. A judgment allows a creditor to collect money from you, and appears on your credit report and can negatively affect your credit.

WHAT ARE THE DISADVANTAGES OF SETTLING A CASE?

- It is the job of the attorney for the plaintiff (the company suing you) to obtain the best outcome for the plaintiff, which means that you may end up with a settlement that is not good for you.
- In some situations, you may not have a legal obligation to pay the debt, and the case must be dismissed, which means you would not owe any money. For example, if the plaintiff is different than the company that loaned you money, it may be impossible for the plaintiff to prove its case, or the plaintiff may have waited too long to bring the lawsuit.
- If your only source of income is public assistance, supplemental security income, social security disability, or other government benefits, it is likely that creditor cannot collect a judgment against you. Therefore, it may be better to go forward with the case--even if you lose, your income is protected.

WHAT ARE SOME THINGS I NEED TO BE AWARE OF WHEN NEGOTIATING A SETTLEMENT?

- Make a budget and determine the absolute maximum payments you can make (your "bottom line") before going into a settlement conference. Do not go over that amount. It is better for you to take your chances at trial if the creditor's attorney will not agree to your bottom line.
- Be aware that sometimes creditors will accept a lower settlement agreement if you can pay the full amount in one lump payment.
- Never start with your best offer. Do not share your bottom line right away.
- Only agree to terms that you feel are reasonable and that you know you can comply with.

- Never agree to a settlement out of fear or pressure. You do not have to settle a case. If the settlement discussions become uncomfortable, stop and continue with the court proceedings.
- Make sure you understand who the different people are in the court. The attorney who represents the plaintiff is not on your side, but the court attorney works for the judge and should be neutral.
- You should only agree to a settlement with a court attorney present. Never settle the case in the hallway or outside of court.

- Make sure that you understand every part of the settlement. If you don't understand something, ask the judge or court attorney to explain it before you agree to it.
- Do not be afraid of appearing before or talking to a court attorney or a judge -- they have an obligation to act fairly and reasonably.
- Obtain any agreement in writing, and make sure that it is reviewed by the judge or court attorney before you sign it.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call MFY Legal Services, Inc.'s Consumer Rights Project on Thursdays from 10:00 a.m. to 2:00 p.m. at 212-417-3881.

DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.