



# BEING SUED?



It's not unusual to be sued. Thousands of people in the U.S. are named in lawsuits every day. The suits may result from a car accident, a dispute between adjoining property owners, or a misunderstanding about the payment of a debt. If you are sued while stationed in Korea, contact an attorney at the Legal Assistance Office immediately for advice on what's involved and to understand your options.

## 1. How a Lawsuit Begins

When someone files a lawsuit, they must formally notify everyone being sued. The party filing the lawsuit is generally referred to as the plaintiff. The party sued is generally referred to as the defendant. The lawsuit is generally commenced by delivering a document known as a summons. The lawsuit, or complaint, is generally included with the summons. In most jurisdictions a summons is served or delivered in person to the individual being sued, or to someone in their household, by a sheriff or a process server. Sometimes, especially in lawsuits involving smaller matters, a summons may be served through the mail, usually registered or certified mail that requires a signed receipt indicating it was delivered. The summons tells the person being sued what they must do to protect their rights to defend the suit. It usually includes the deadline for filing an answer to the complaint. The complaint tells the person being sued why the action was brought against him or her and what the demands are.

## 2. The Stages of a Lawsuit

The steps involved in a lawsuit are different from one court system to another. Therefore, when you receive a summons and complaint, it is important to read them carefully.

Usually, when a case is filed and you are served with a summons, a clock starts running. You have limited time to respond to the lawsuit by filing a document known as an appearance and, in most cases, filing an answer to the complaint. Alternatively, if you can not appear or defend yourself in the lawsuit because of your military duties, you may be able to request a stay or postponement of the proceeding under the Soldiers and Sailors Civil Relief Act. If you fail to take these steps, you may lose your right to dispute the lawsuit and defend yourself.

If you have not requested a stay of the proceedings, and you have filed an appearance and an answer, a date may be set for a trial, or for a pretrial conference. In the meantime, the parties have the right to conduct discovery. Discovery is the process for each side to find out more about the issue in dispute. It may require people to answer questions under oath in a deposition, or through interrogatories. A deposition is an oral examination, while interrogatories are written answers to questions.

In most courts, the judge will try to settle the case after discovery is completed and before the trial. The judge may require the parties to attempt to try to reach a settlement by themselves. The great majority of cases do settle without going to trial. When a civil case goes to trial, it may be heard and decided by a judge or a jury. A jury will decide the case if any of the parties asks for one. Usually there is an additional filing fee to demand a jury. If the case is decided against the person being sued, the judge or jury will also decide how much the damages are.

After a settlement or trial, a court order is written and signed by the judge. The order sets out the obligations resulting from the lawsuit. If there is an order for damages and money is owed, the order can be enforced by various collection methods such as wage assignment, where money is taken out of a paycheck, or the sale of assets such as a car or house.

If you lose a lawsuit, you might be able to bring an appeal to a higher court. However, appeals can be brought for only a limited number of reasons and are costly and time consuming.

### **3. Deciding Whether to Hire a Lawyer**

When deciding whether to hire a lawyer, it is generally best to look at the economics of the situation. How much are you being sued for and how much will the lawyer cost? A legal assistance attorney can assist you in reviewing the pros and cons of hiring a lawyer in your particular situation.

### **4. Finding a Lawyer**

If you decide you will benefit by hiring a lawyer, there are a number of ways to do so. Most people find a lawyer through a personal referral from friends, family members or colleagues at work. If you cannot find a lawyer through a personal referral, try a local city or county bar association referral service. Some lawyer referral services have panels of lawyers who concentrate in certain fields of practice. You'll usually find bar association lawyer referral programs listed in the Yellow Pages under "lawyer referral."

### **5. Having a Lawyer Provided for You**

Sometimes a lawyer is provided to the person being sued at no personal expense. For example, if you are sued because you were in an auto accident, your insurance company will probably provide a lawyer to protect your interests. (You must contact your insurance company to find out if it will provide a lawyer and to give the company notice of a possible claim.) However, you must remember that you are responsible for any suit in which you are named.

*\* This handout is for general informational purposes only. For specific questions concerning individual circumstances, contact the Client Legal Services Office in your area.*

<p>Yongsan Client Legal Services Division, Office of the Staff Judge Advocate, Eighth US Army Bldg 4106, room 229 (ACS building). Please call 738-8111 for an appointment. Office hours: M, Tu, W, F 0900-1700 and Th 1300-1600.</p>
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