

TIPS for Servicemembers

Postponing Civil Cases While on Active Duty



If you get sued while you are on active duty, or if you are involved in a civil case and get called to active duty, you may be able to postpone the case. You may also be able to postpone having a court judgment collected from you while you are on active duty. Here are tips on how to get a postponement.

Postponing Court Proceedings

If you are on active duty (or were in the past 90 days), you can ask the court to postpone a civil case for 90 days or more.

- If you get sued, don't ignore it!
- Go to your installation legal assistance office and ask for help.
- You can ask the court to postpone a case:
 1. File a letter to the court that says why your military duty prevents you from appearing in court;
 2. Include the date you will be able to appear in court; and
 3. Include a letter from your commanding officer that says that your military duty prevents you from appearing in court and that you are not authorized for military leave.
- If you get a postponement but need more time after that, you can ask for another postponement.

Postponing Collection of Judgment

If you are on active duty (or were in the past 60 days), you can ask the court to postpone the

execution of a judgment against you. If the judgment ordered you to pay the plaintiff, a postponement means the plaintiff cannot collect payment until after the postponement.

Postponement can be for up to 90 days after active duty ends.

Protections Against Default Judgments

If you get sued and you don't respond or appear in court, the person suing you may try to get a default judgment against you. If you are on active duty, you have some protections:

If You Get Sued, Don't Ignore It

If you are on active duty, tell the court so you get the protections you deserve.

A plaintiff asking for default judgment must state whether you are on active duty. If the plaintiff says you are, the court will appoint an attorney to represent you.

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A plaintiff may wrongly state that you are not on active duty. If you get sued and are on active duty, make sure to tell the court.

Re-opening a case: If a court entered a default judgment against you while you were on active duty, you may ask it to re-open the case so you can defend yourself.

- Get legal assistance immediately if you find out that a default judgment was entered against you. You must ask the court to re-open the case within 60 or 90 days after your active duty ends.

Additional Resources

Ask your base legal office for help. For the legal office's contact information, ask your command or visit the Armed Forces Legal Assistance Program website at <http://legalassistance.law.af.mil/content/locator.php>.

California National Guard personnel can also get help from the State Staff Judge Advocate's Office - go to <http://www.calguard.ca.gov/> for contact information.

For information on civilian legal aid resources, go to <http://www.lawhelpca.org>.

The Attorney General's Office cannot give legal advice, but filing a consumer complaint is helpful because it alerts the Office to consumer issues and may help with the Office's investigations. File a complaint with the Attorney General's Office at <https://oag.ca.gov/consumers> or (800) 952-5225. For more information about military consumer protection, visit <https://oag.ca.gov/consumers/general/military>.

For questions regarding the Department of Justice, contact the Public Inquiry Unit at (916) 210-6276 (voice), or (800) 952-5225 (toll-free in California).