
Minnesota Consumer Debt Litigation

A STATEWIDE ACCESS
TO JUSTICE REPORT

Minnesota State Bar Association Access to Justice Committee

2023



Executive Summary

Overview

Using state courts to collect debts has become extremely commonplace in the U.S., and Minnesota is no exception. In 2019, more than half of the cases filed in the state's civil courts involved consumer debt. But court processes and procedures in the state weren't designed with unrepresented consumers in debt litigation in mind, and they haven't shifted to reflect the current reality. Minnesota courts are seeing a high volume of debt cases being brought by businesses against individual consumers who rarely have an attorney's help.

To better understand the impact of Minnesota debt collection lawsuits, the Minnesota State Bar Association Access to Justice Committee (ATJ) examined bulk civil court data, analyzed policies, and conducted interviews in the state. The Committee, which works to increase access to meaningful, effective assistance for civil legal needs, was supported by Legal Services State Support, the Minnesota State Bar Association (MSBA), Minnesota Judicial Branch, January Advisors Data Science Consulting, and The Pew Charitable Trusts.

The Committee found that current practices—some unique to Minnesota, others common across the country—have made it difficult for consumers without an attorney to fully engage in debt litigation, or often to even know that there is a case against them. On the other hand, the Committee found that the current system is working well for businesses that turn to the courts to resolve debts.

Confusing and opaque processes, paired with minimal court oversight at key points, mean that Minnesotans who want to engage in their case and use it as a final opportunity to resolve their debts have no clear path for doing so.

Key findings from this analysis include:

The current debt litigation landscape has made it difficult for Minnesota civil courts to realize their stated vision that “the general public and those who use the court system will refer to it as accessible, fair, consistent, responsive, free of discrimination, independent, and well-managed.”¹

- The overwhelming majority of debt cases in Minnesota—82% of district court cases and 54% of conciliation court cases—end in default judgment in favor of the plaintiff.
- Minnesota has fewer residents in debt than in most places in the U.S., but more litigious plaintiffs, with 1 in 8 debts in collections eventually filed as civil court cases.

Court processes and policies make it difficult for Minnesota consumers to participate in and resolve their cases.

- More than half of debt cases filed in district court involved less than \$4,000, which means they are eligible to be filed in conciliation court.
 - More consumers engage in their lawsuit if the case is brought in conciliation court than in district court. Roughly 82% of consumer debt cases in Minnesota district court end in default (compared to 54% in conciliation court), higher than in most states and above national numbers.
- Minnesota’s two-venue system for debt litigation allows plaintiffs to choose whether to file in district court or conciliation court for matters involving \$4,000 or less. This creates confusion and different outcomes for consumers, almost none of whom are represented by a lawyer.
 - District court allows plaintiffs to serve consumers notice of a lawsuit without filing in court, creating confusion about the validity of the matter.
 - The official process for filing an answer in a district court case is inconsistent with actual practice; formal answers are expensive to file, resulting in a practice whereby self-represented consumers send informal “answers” to plaintiffs attorneys, putting the adverse party in the position of determining whether the consumer has sufficiently answered the claim.

There are racial and income disparities in who is being sued in Minnesota.

- Overall, the rate of debt claims filed against Black and Latino Minnesotans is more than twice that of Non-Hispanic White Minnesotans.
- The filing rate against consumers in neighborhoods where the median household income is \$50,000 or less per year is 50% higher than against those in neighborhoods where the median household income is over \$75,000 per year.

The services and protections available to debt consumers are not reaching enough Minnesotans or helping people avoid the worst consequences of debt cases.

- Most Minnesotans facing debt litigation represent themselves. They often don't make enough money to hire a private attorney but make too much to qualify for legal aid.
 - An estimated 82% of cases are filed against people who are above the legal aid income threshold.
 - Income requirements for legal aid services, limited legal aid resources, and competing priorities for in-demand services across the legal spectrum meant Minnesota legal aid served just 3,000 debt-related cases between 2019 to 2021, out of approximately 178,000 that were filed in Minnesota courts during that time.
 - The processes for enforcing a judgment are largely handled by plaintiffs, taking place outside of the purview of the courts; as a result, there is limited court data available to understand the impact of post-judgment activity on Minnesota consumers.

Based on these findings, the MSBA's Access to Justice Committee recommends that policymakers and civil justice leaders:

1

Develop specialized procedural rules for debt cases to better manage consumer debt cases.

2

Create and improve resources that empower self-represented litigants to participate in their cases.

3

Preserve economic stability for debt-burdened Minnesotans, so they can afford basic needs while repaying their debts.

4

Expand services for lower- and moderate-income people who are struggling with debt.

By making debt litigation processes in Minnesota courts less confusing and increasing consumer protections and resources, the state can cut costs related to these cases, support courts in their efforts to process these matters more effectively, and help consumers and creditors reach resolution.

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Background

Minnesota has an active access to justice community and some good policies on the books related to consumer debt lawsuits.² For example, the state is ahead of other states in adopting documentation requirements for debt buyers and prohibiting revival of debt after the statute of limitations has run. Minnesota courts also have a strong operational infrastructure. Court staff's commitment to training, leveraging resources, and creating detailed process documents means the day-to-day functions of the courts are well run. Nevertheless, Minnesotans involved in debt litigation still experience challenges, and consumer debt cases are flooding Minnesota civil courts.

Minnesota is unusual compared to other states in how little the judiciary interacts with civil debt cases, and plaintiffs in Minnesota have an outsized role in deciding where their matter is heard, when a case is formally filed, and how money is collected if they receive a judgment in their favor. The research team examined data provided by the courts to understand how the courts' limited involvement affects court users. The state's two-venue system for civil matters involving \$4,000 or less, its rules allowing hip pocket³ filing (the practice of commencing a lawsuit upon serving the defendant with the summons, rather than by filing a claim with the court), for district court matters, and the magnitude of the plaintiffs' role compared to that of the courts make Minnesota an outlier among U.S. state civil courts.

In order to understand the scope and impact of debt collection lawsuits on Minnesotan consumers, the MSBA Access to Justice Committee brought together a diverse group of stakeholders with experience in Minnesota civil courts and debt collection lawsuits to provide insight on data analyses and identify data-informed recommendations to make the courts work better for all parties involved. Among these stakeholders were judicial officers, legal services attorneys, creditors attorneys, private consumer attorneys, consumer advocates in the attorney general's office, and service providers in the following areas: financial counseling, mediation, court-based self-help, and lawyer referral.

Minnesota's Two-Venue System for Civil Matters

Differences between conciliation court and district court

If the amount in controversy for a debt case is \$4,000 or less—something that is true for the majority of debt cases filed in Minnesota—the state allows plaintiffs to select the venue for their complaint: either conciliation court or district court. Plaintiffs can file lower-dollar cases in district court even if the amount in controversy makes the case eligible for filing in conciliation court. This can create two very different experiences, and often different outcomes, for consumers who owe similar amounts. Typically, the unique features of district court cases make them more complex and costly for self-represented consumers to navigate.

Table 1

CONCILIATION COURT	DISTRICT COURT
File first > then serve	Serve first > then file
Answer not required. Hearing automatically scheduled.	Answer generally required for a hearing.
No court-based mechanism to settle before filing.	Some cases may be settled before filing.
Judicial officer enters default judgment if the defendant does not show up to the hearing.	Plaintiff can file as a default judgment; it is entered administratively by court administration.
Debt documentation requirements are the same (only apply to debt buyers seeking default).	Debt documentation requirements are the same (only apply to debt buyers seeking default).
Judgments must be docketed in District Court to garnish.	Judgments are enforceable.

The fees associated with filing and responding to a case in conciliation court are lower than those in district court, and debt defendants in conciliation court are significantly more likely to engage in their cases. While some of this disparity in defendant participation may be attributed to district court settlements prior to judgment due to hip pocket filing, it is unlikely that this practice accounts for the entirety of the differences in defendant participation.

Figure 1: District Court

A lawsuit to collect on a consumer debt in district court follows the process illustrated here.

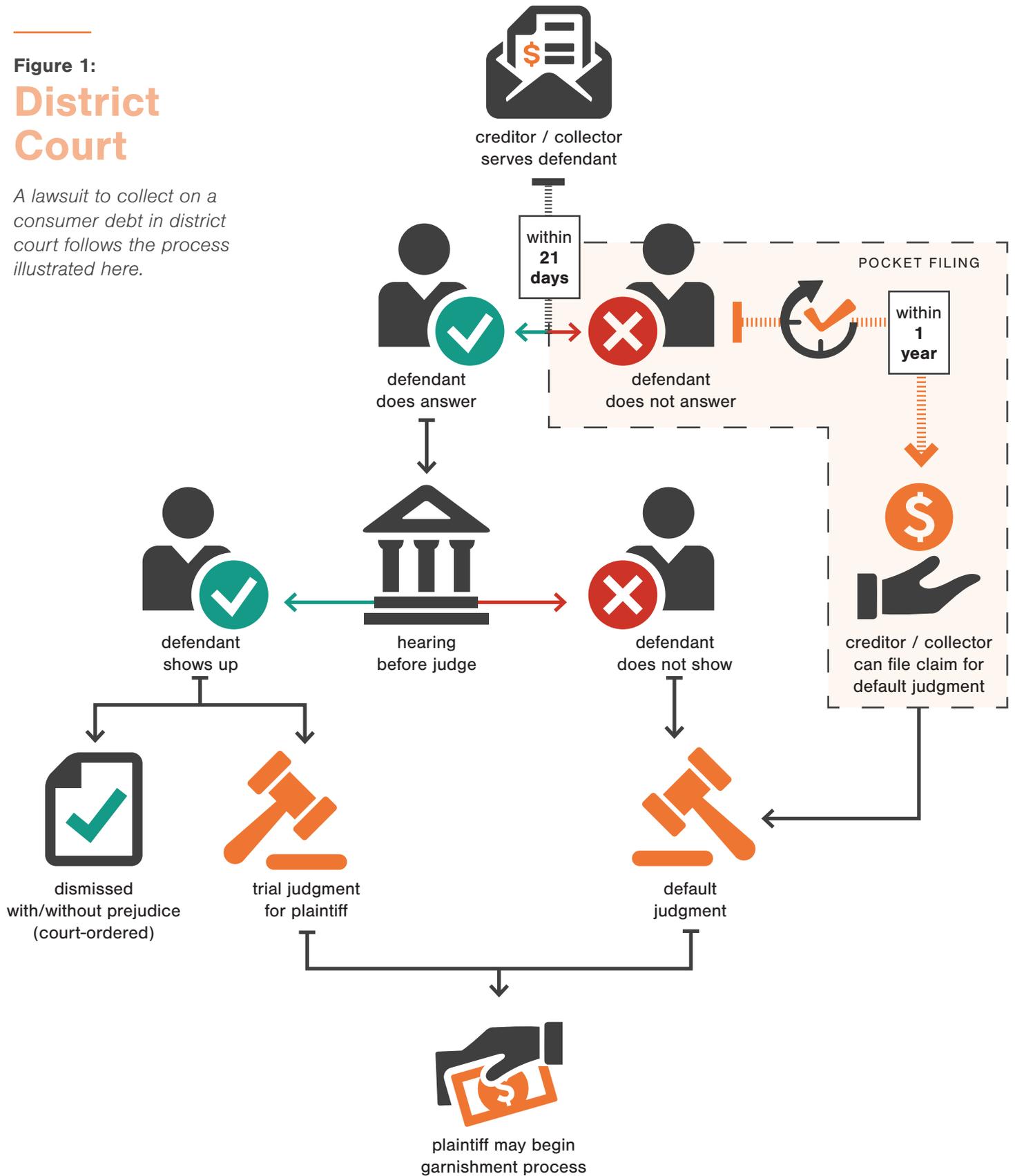
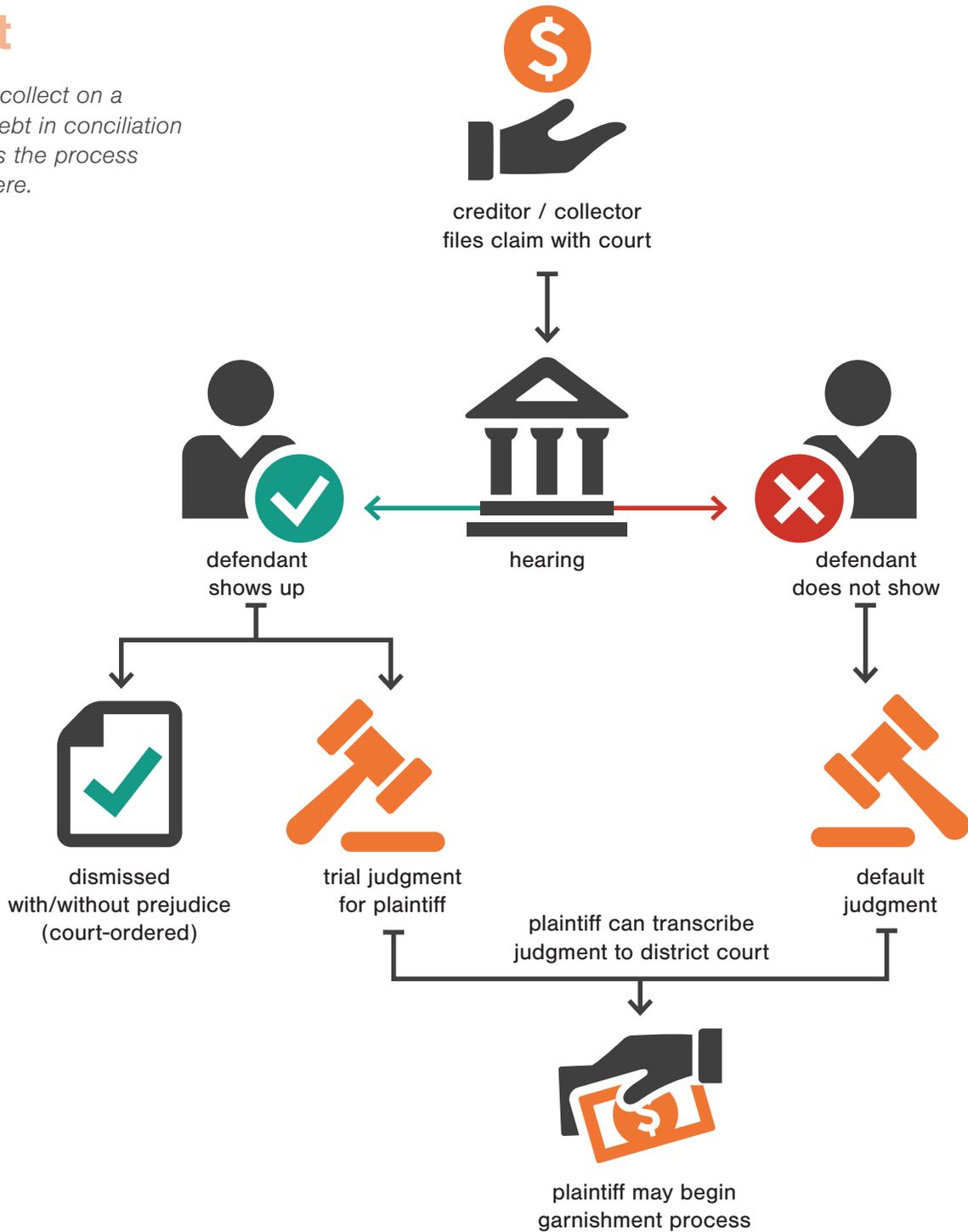


Figure 2:

Conciliation Court

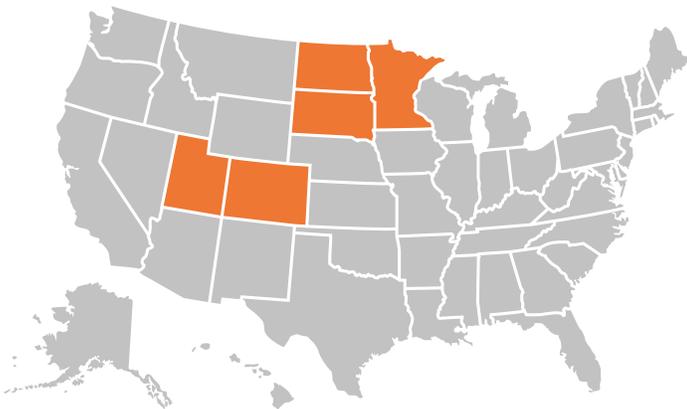
A lawsuit to collect on a consumer debt in conciliation court follows the process illustrated here.



Service and filing requirements make Minnesota an outlier

District court allows “hip pocket filing,” which gives plaintiffs the leeway to serve consumers notice of a debt lawsuit before filing that suit in court. Minnesota is one of just a handful of states (including Colorado, North Dakota, South Dakota, and Utah) that employs this practice.

Map 1: Only 5 states employ hip pocket filing
Colorado, Minnesota, North Dakota, South Dakota, and Utah permit some civil actions to commence at service rather than filing.



Plaintiffs planning to file in district court are able to serve consumers with a summons and complaint before filing it with the court; they have up to a year to file (and can also choose not to file). Once consumers are served with a summons and complaint, they have 21 days to respond to the plaintiff. Consumers who don’t respond within this window risk a default judgment—an automatic decision in favor of the plaintiff when a consumer doesn’t adequately respond to or participate in the case against them. During this period, however, there is no court-issued case number or requirement that the plaintiff provide proof to the consumer that the debt is valid. The courts do provide an answer form ([CIV302](#)), but the Committee found that it is almost never used by consumers being sued for debts. No notice or official documents from the court are sent to the consumer until after the judgment is entered, at which point the court sends a notice of entry of judgment.

Consumers who don’t respond within **21 days** risk a default judgment—an automatic decision in favor of the plaintiff when a consumer doesn’t adequately respond to or participate in the case against them. During this period, however, there is no court-issued case number or requirement that the plaintiff provide proof to the consumer that the debt is valid.

This practice does not exist in conciliation court, where plaintiffs must begin the litigation process by filing their complaint with the court; consumers are then served with a summons with a hearing date and time.⁴

Figure 3: Stages of debt lawsuit with hip pocket filing



Background

In conciliation court, consumers are required to participate in their hearings but are not required to file an answer to the case unless entering a counterclaim. In district court, not only are consumers required to file an answer, but they must pay a \$285 filing fee (plus additional fees depending on the judicial district) to do so. Few state civil courts in the U.S. charge consumers to answer, and no other state in the region has such a high answer fee (see *Fig. 14, p. 27*). The consumer can also respond by sending something in writing directly to the plaintiff, but knowing how to compose these informal responses can be confusing for self-represented litigants, and they often don't know how or where to send them, so the court generally has no record of them.

Even compared to the handful of other states with hip pocket filing practices, Minnesota district courts allow plaintiffs one of the longest windows of time between service and filing in the country, making it an outlier among outliers. Most other states with hip pocket filing, including Colorado, Utah, and North Dakota, have hip pocket filing windows between 10 and 21 days, commensurate with the amount of time defendants have to respond. Minnesota's window of 365 days for plaintiffs to file is far longer than the window for consumers to respond.

According to stakeholder interviews, service paperwork may be discounted or viewed as a “scam” if there is nothing about the case yet available through the courts.

The lengthy filing time offers benefits and drawbacks. A benefit of the longer filing time is that it can allow plaintiffs and consumers time to settle the matter before it reaches the court, without incurring additional costs or creating a record. The uneven timing requirements also have drawbacks: because mandatory disclosures (including documents in support of the plaintiff's claim) are not triggered unless the consumer responds, and debt buyers are only required to provide documentation 14 days before applying for a default judgment, consumers have less time to respond and attempt to verify the claim than plaintiffs have to file.⁵ According to stakeholder interviews, service paperwork may be discounted or viewed as a “scam” if there is nothing about the case yet available through the courts. This may impact a consumer's likelihood of responding to a case in time, or at all. Because the court is not involved in the pre-filing process, there is no data to indicate the number of cases settled out of court. Altogether, these policies smooth the way for plaintiffs to obtain default judgments.

Table 2: States with hip pocket filing offer shorter windows for plaintiff filing, defendant response than Minnesota

Comparison of “serve first” procedures in states where a civil lawsuit may be commenced at service rather than filing.

STATE	Time between service and filing	Time for defendant to respond
SOUTH DAKOTA	“Forthwith upon service”	30 days
UTAH	10 days	21 days
COLORADO	14 days	21 days
NORTH DAKOTA	20 days	21 days
MINNESOTA	365 days	21 days

Source: N.D.R. Civ. P. Rule 3, Rule 5; S.D. Codified Laws § 15-2-30; CRCP 3(a); U.R.C.P. Rule 3, Rule 4; Minn. R. C. P. 3



Courts Are Hands-Off in Post-Judgment Matters

Minnesota courts have more limited involvement in garnishment processes and other post-judgment activities compared to other states. Plaintiffs and their attorneys usually directly communicate with garnishees and self-represented defendants about garnishment matters with little intervention from the courts.

In most states, when plaintiffs want to collect a judgment, the plaintiff must file for a writ of garnishment (or execution) with the court, after which the court issues a garnishment summons that is served on both the consumer and their bank or employer. The bank or employer then has to answer to the court whether they have any of the judgment debtor's assets, so the court has a record of how many garnishments were attempted and whether there were assets subject to garnishment. Additionally, in most states the consumer lets the court know if they have assets that are protected from garnishment or levy by filing an exemption form with the court, meaning the court has some record of and insight into how its judgments are enforced.

But Minnesota is not like most states. In Minnesota, the plaintiff attorney, instead of the court, prepares the garnishment summons that goes to the bank or employer, as well as the notice that goes to the consumer. The bank or employer answers directly to the plaintiff to let them know whether there are any assets subject to garnishment or levy. And if the consumer wants to claim exemptions, instead of filing a claim of exemptions with the court, the consumer must communicate directly with the plaintiff's attorney. The court only gets involved in exemptions if one of the parties objects and asks for an exemption hearing, which may be burdensome and/or confusing for self-represented consumers. As a result of this hands-off process, the court has incomplete knowledge of how plaintiffs are using the power of the court to satisfy debts. Nor do the courts have the opportunity for quality control regarding whether consumers are able to adequately assert their right to have exempt assets protected from garnishment or levy. Lack of court involvement also means that consumers have a slower path to resolution when protected funds are garnished.

In Minnesota, the judgment creditor doesn't have to apply for a writ until after the garnishment summons has been served, the employer or bank has withheld or frozen the funds, the exemption period has passed, and the funds are released to them.



The Minnesota Attorney General's Office has collected stories of Minnesotans who have experienced issues with the level of the court's involvement in post-judgment activities. In 2016, Minnesotan "Jess Doe" had a judgment entered against her for an old debt; in 2023, she noticed a pending transaction of over \$13,000 in her bank account by the collector. The next day, the funds were released by Jess's bank and taken by the collector. Jess said that the collector never sent a garnishment summons or the two exemption forms that they are required to send. Jess is on MinnesotaCare and likely would have been eligible for the exemption. She had to print the forms herself and send them to the collector.

Although Minnesota has solid laws on the books related to debt litigation, such as documentation requirements for debt buyers and exemption policies for consumers receiving public assistance, the state's challenge is making sure that the intentions of those policies are being realized.

Methodology

The report used a mixed methods approach to understand the landscape of debt collection lawsuits in Minnesota. This included conducting a policy landscape analysis, process maps of how a case moves through district and conciliation court, stakeholder interviews, and quantitative analysis of court data from multiple sources (the Minnesota Judicial Branch's Civil Judgments Extract, anonymized case intake data from Minnesota-based legal aid organizations, data from the 2015-2019 American Community Survey, the Consumer Financial Protection Bureau's Consumer Complaint Database, the 2017 Financial Well-Being Survey, and a random sample of 1,000 cases filed between 2018 and 2021). Unless otherwise noted, the findings in this report generally concern cases filed over the ten-year period between 2011-2021. Also of note, because the courts do not collect demographic information, the researchers imputed demographic information based on defendant names and addresses.

The leadership team sought to interview consumers with lived experience of civil debt litigation in Minnesota. Interviewees were identified through referrals from LawHelpMN, the court's Self-Help Center, and Attorney General's consumer hotline. Several consumers scheduled interviews, but ultimately only two consumers participated. Additionally, the Attorney General's office provided three anonymized accounts of consumers who had contacted the consumer hotline for assistance with an issue related to consumer debt litigation.

To conduct the analysis, the research team consulted with the leadership team to identify relevant research questions and understand findings. For more information, see the full methodological [appendix](#).

Research Findings

The characteristics of plaintiffs, debts, and consumers

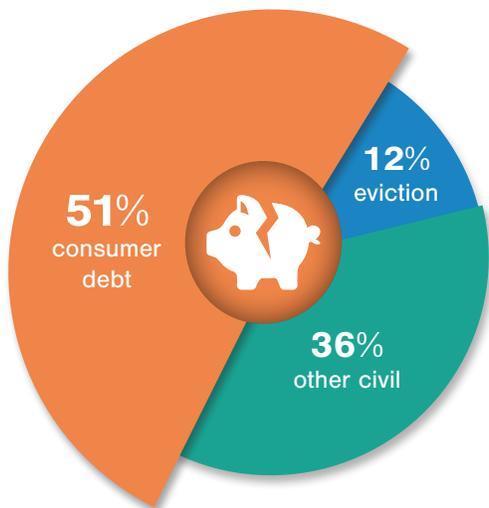
- 1.** The majority of Minnesota civil cases are debt cases.
- 2.** Debt collection lawsuits are spread across the state's 10 judicial districts.
- 3.** Most debt cases involve \$4,000 or less.
- 4.** Debt buyers represent a growing share of plaintiffs.
- 5.** Minnesota has a disproportionately high debt case filing rate.
- 6.** Black and Latino Minnesotans at all income levels are more likely than White residents to have debt suits filed against them.
- 7.** Defendants rarely have legal representation; plaintiffs almost always do.

The majority of Minnesota civil cases are debt cases

Consumer debt cases are flooding Minnesota civil courts. In 2019, debt collection lawsuits were the most common civil case type in Minnesota, making up 51% of the civil docket. Minnesota courts see four times as many debt cases as they do evictions, the next most common case type.

Figure 4: Consumer debt lawsuits dominate the civil docket

Courts hear four times as many debt cases as the next most-common case type.



Number and share of civil cases filed by case type. Consumer debt cases defined as cases filed in conciliation or district court (Default, Consumer Credit, Confession of Judgment,) between a business (plaintiff) and consumer (defendant). Transcript Judgments are removed from the total count. Numbers do not add up to 100% due to rounding.

Sources: Minnesota Judicial Branch Civil Case Extract and District Court Case Dashboard, 2019.

Between 2011 and 2021, 664,000 debt cases were filed in the two Minnesota venues that hear such claims: district court and conciliation court. Claims were distributed almost evenly between the two courts during that time span, with roughly 300,000 cases filed in district court and 364,000 cases filed in conciliation court.



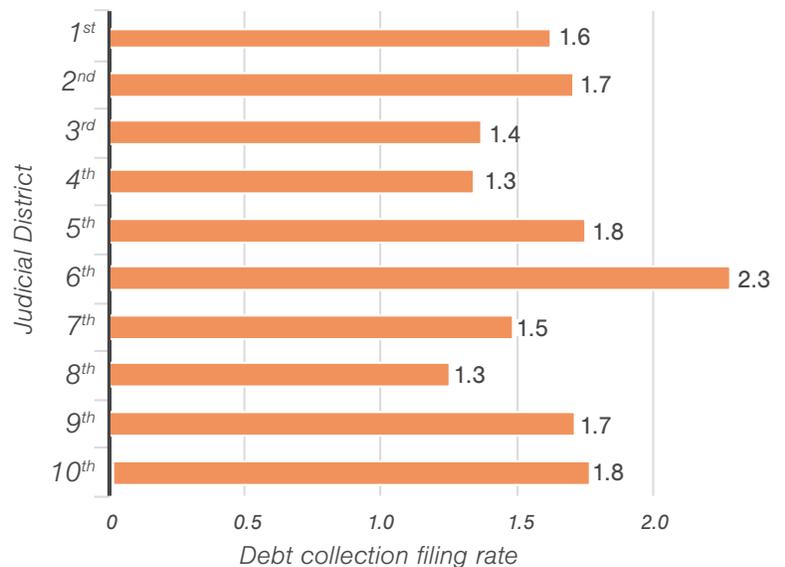
Debt is everywhere

Consumer debt exists throughout Minnesota, from Southern Minnesota to the Twin Cities, to the Iron Range, and everywhere in between. Debt collection lawsuits are filed all across the state and are not confined to urban or rural areas.

Case filings are evenly spread across the state's 10 judicial districts, for the most part. Residents in judicial districts that include rural areas—such as the Iron Range, which is included in the 6th District—have a slightly higher rate of filings against them. Urban residents, such as those in Minneapolis, which falls under the 4th District, have a slightly lower rate of filings against them.

Figure 5: Debt cases are spread across all Minnesota judicial districts

Litigation is slightly more common in some areas, but Minnesotans are affected statewide.



Average annual debt collection filing rate in Minnesota conciliation & district courts, 2017-2019. Filing rate calculated as number of cases filed per 100 residents.

Source: Minnesota Judicial Branch Civil Case Extract, 2017-2019; American Community Survey



Minnesota has a high litigation rate

Minnesota has a relatively small number of residents in debt, but a high debt litigation rate.

In terms of sheer numbers, Minnesota has fewer debt filings than states such as Michigan, Wisconsin, Indiana, Utah, and Texas. In 2019, there were 71,787 debt cases filed in Minnesota, a rate of about 1.68 cases per 100 adults. Minnesota also has a lower percentage of residents in debt than in those states—just 13% of residents have a debt in collections.

That low percentage of residents in debt would suggest that creditors wouldn't need to file lawsuits to recoup debt quite as often as they do in other states. But, in fact, the litigation rate for debt in the state is relatively high—nearly 1 in 8 people with debt in collections end up being sued—which suggests creditors are actually more likely to file lawsuits in Minnesota than in other states.

Minnesota has the lowest debt rate, but it also has fewer adults with any debts in collections.

In fact, there are more debt cases filed in Minnesota as a share of the population with any debt in collections than other Great Lakes states and Utah.

In other words, **Minnesota has fewer debtors but creditors and debt buyers are more likely to file lawsuits** than in other states.

Figure 6: Minnesotans in debt are more likely to end up in court

Despite having fewer debt cases than in other states, consumers in Minnesota are sued more.

	MINNESOTA	MICHIGAN	WISCONSIN	INDIANA	UTAH	TEXAS
Debt Cases Filed (2019)	71,787	208,051	81,879	104,757	59,519	398,764
Debt Cases Per 100 Adults	1.68	2.64	1.8	2.03	2.6	1.86
% Residents with Any Debt in Collections	13%	26%	20%	28%	19%	37%
Litigation rate: <i>Debt Cases per 100 Adults with Any Debt in Collections</i>	12.9	10.2	9.0	7.2	13.7	5

Source: January Advisors, Urban Institute



Amounts in controversy are too high for consumers to pay, but too low to justify hiring an attorney

Most debt cases involve relatively low amounts of money.

As is the case in other states, the majority of debt collection lawsuits in Minnesota do not involve large sums in the tens of thousands of dollars. The median amount in controversy at the time of filing is \$1,211 in conciliation court and \$3,411 in district court. Just a quarter of consumers are sued for \$4,000 or more.

Although these amounts may seem low, plaintiffs spend a considerable amount of time, money, and effort trying to recoup these debts. And for individual consumers who have had difficulty paying back the debt they've accrued, the amounts are significant. Litigating large numbers of these small-dollar matters, which ostensibly could be resolved outside of formal legal action, also places a significant strain on court dockets.



The majority of plaintiffs are debt buyers

Debt lawsuits in the state are largely driven by a small number of high-volume plaintiffs with expertise in filings such as claims and access to and mastery of court tools, such as bulk filing, that allow them to pursue and win large numbers of cases.⁶ In fact, just 10 firms were responsible for filing two-thirds of debt suits in the state in 2020 and 2021.⁷

The majority of these cases involve credit card debt: in district court, 95% of all lawsuits brought by debt plaintiffs were over credit card debt, according to a review of case documents among a random sample of debt lawsuits filed between 2018 and 2021. Three-quarters of debt cases filed in conciliation court dealt with credit card debt.

The majority of plaintiffs are debt buyers—third-party companies that purchase debts from original creditors, often for pennies on the dollar, with the intention of collecting the full amount owed.⁸ Of the top plaintiffs in Minnesota, debt buyers filed half of all lawsuits from 2017 to 2019.

During that same time period, credit card companies and banks filed 21% of lawsuits and medical providers filed 12% of lawsuits. The remaining 18% of debt cases were filed by smaller filers, such as payday and other lenders.

Medical debt in Minnesota

In recent years, medical debt has emerged as an area of concern for policymakers. Medical debt and other forms of debt, such as credit card debt, are often intertwined and interconnected. For example, patients may resort to charging medical bills to their credit cards, resulting in unpaid credit card balances that actually stem from medical expenses. Additionally, some individuals may prioritize paying their medical bills directly but rely on credit cards to cover other essential expenses like groceries and transportation costs. Therefore, while it is essential to recognize the significance of medical debt as a distinct issue, it is equally important to acknowledge its interconnectedness with credit card debt and the broader financial challenges individuals face. By adopting a holistic perspective, policymakers can develop

comprehensive strategies that address both medical debt and the related financial burdens faced by individuals.

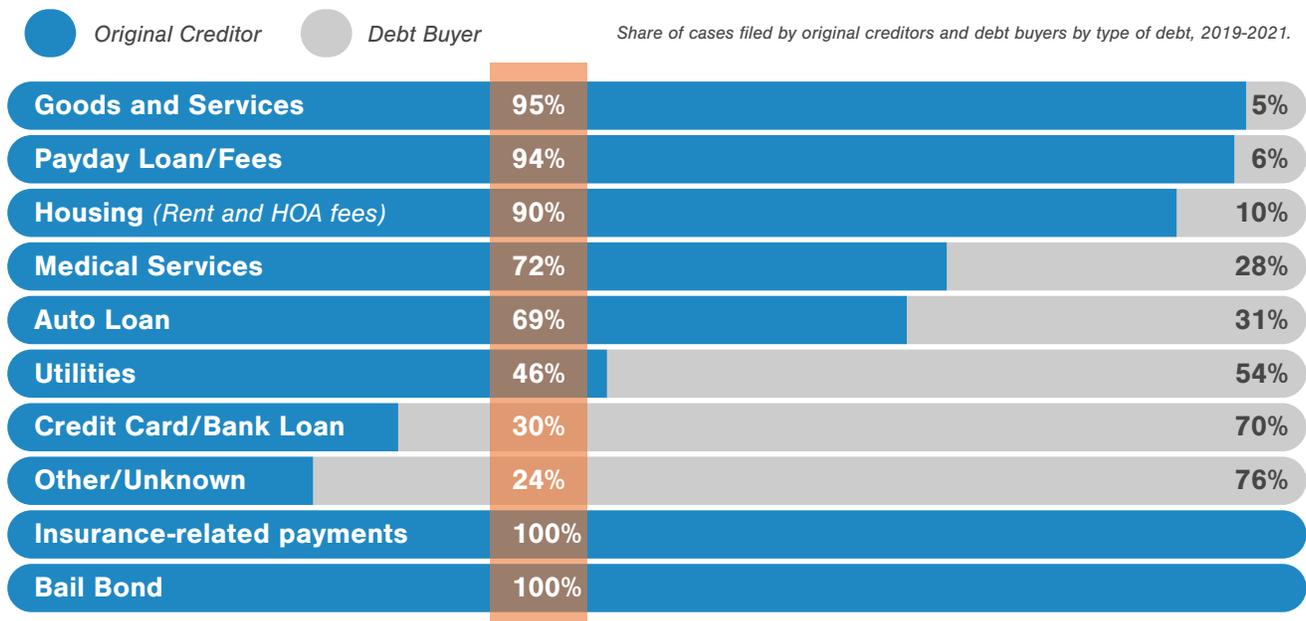
The type of debt at issue in debt collection cases in Minnesota is not tracked by the courts. To identify medical debt cases, researchers reviewed court documents from a subsample of cases and classified debt as medical debt based on the original creditor. Medical debt includes debt accrued from hospitals, dentists, outpatient clinics, and other medical providers.

In Minnesota, medical debt accounts for 17% of debt collection cases, with a higher prevalence of such cases in conciliation court (25%) compared to district court (7%). This amounts to 0.28 cases per 100 adults in Minnesota.

Whereas most debt litigation in Minnesota is brought by debt buyers, the majority of medical debt cases (75%) are filed by original creditors; for cases involving other types of debt, such as credit card debt and utilities, debt buyers predominate. The prevalence of original creditors filing medical debt cases highlights the direct involvement of healthcare providers and medical institutions in pursuing legal action to collect outstanding medical debts, underscoring the unique dynamics and characteristics of medical debt within the debt collection landscape.



Figure 7: Debt buyers and original creditors bring different types of debt to court



Source: Hand sample (N=1,001 cases) analysis of Minnesota consumer debt cases, 2018-2021.

Table 3: Four plaintiffs account for over 50% of medical debt filings in Minnesota

Top filers 2018-2021, % of medical debt, categorized by type of debt.

PLAINTIFF	
Fairview Health Service	20%
Accounts Receivable Services LLC	11.53%
Center For Diagnostic Imaging	10%
Healtheast Care System	10%
Accounts Management Inc	5.38%
Mayo Clinic Health System	4.61%
Bradstreet Associates LLC	3.84%
Range Credit Bureau Inc	3.07%
Credit Service Intl Corp	1.53%
Winona Health	1.53%
Woodwinds Hospital	1.53%

Source: random sample review of documents

Some of the top filers of medical debt in the state are medical providers. Fairview Health Services is the top filer Minnesota, accounting for 20% of all medical debt collection filings. Other top medical providers filing debt collection cases include Center for Diagnostic Imaging (10%), Healtheast Care System (10%), and Mayo Health System (4.6%). Debt buyers are also filing medical debt cases in Minnesota, including Accounts Receivable Services (12%) and Accounts Management Inc. (5%).

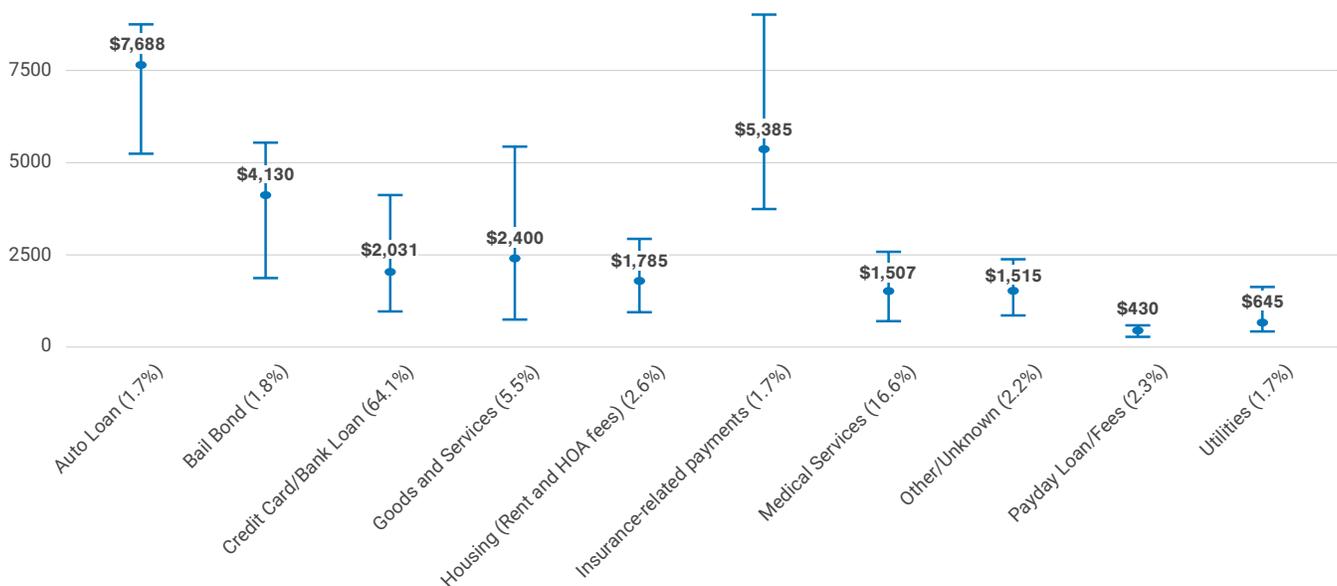
The amount of money involved in medical debt cases taken to court in Minnesota tends to be relatively modest. The median amount in controversy is \$1,500, with the interquartile range spanning from \$700 to \$2,600. This is a lower amount than in cases involving credit card debt, auto loans, and bail bonds. These figures suggest that the medical debts subject to legal action are more frequently associated with patients who struggle to meet their deductibles rather than cases involving astronomical hospital bills.

Still, the total amount of money owed in judgments for medical debts is quite large. In 2019, an estimated \$25 million in judgments was issued for cases involving medical debt.⁹ Looking at case outcomes, most defendants lose or settle their cases. But there are important differences between cases in conciliation and district courts. Medical debt cases in conciliation court have below-average default rates (40% vs 52% for all case types in conciliation) and higher rates of settlement and dismissals. In district court, medical debts have a higher rate of default at 88%, which is similar to the average for all case types in district court. These differences may be partly due to the amount of money owed in these cases: the median medical debt in conciliation court is \$1,200 compared with \$3,100 in district court.

Among conciliation court cases, an estimated 70% of medical debt cases that result in a judgment are transcribed to district court, according to an analysis of event data from a subsample of cases. That is slightly higher than the average among all judgments in conciliation court of 64%.

Figure 8: The median amount in controversy varies by type of debt

Median amount in controversy for district court cases by debt type, 2018-2021. Excludes transcript judgments.



Source: Hand sample (N=1,001 cases) analysis of Minnesota consumer debt cases, 2018-2021.

There are racial disparities in who is sued for debt

Black and Latino Minnesotans are sued more often than White Minnesotans.

When creditors turn to the courts for help collecting a debt, some Minnesotans are disproportionately impacted.

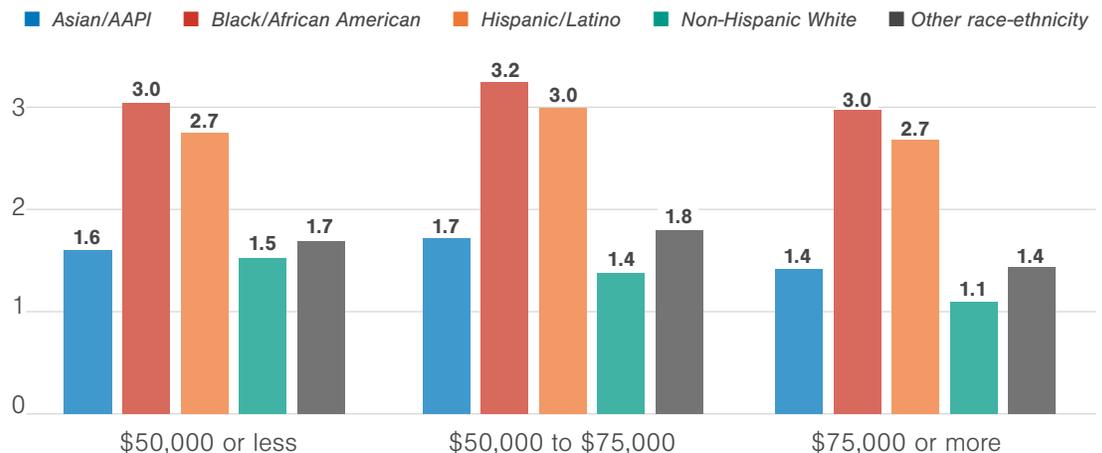
Overall, the rate of debt claims filed against Black and Latino Minnesotans is more than twice that of Non-Hispanic White Minnesotans.

These racial gaps also exist in high-income neighborhoods. While White Minnesotans in higher-income neighborhoods tend to have lower rates of debt claims filed against them than their White counterparts in lower-income neighborhoods, the same is not true of Black and Latino residents. In both lower-income and high-income neighborhoods, Black and Latino Minnesotans have a much higher rate of debt claims filed against them than their White neighbors. This pattern holds even in Hennepin County, home to Minnesota’s largest Black and Latino populations.

Figure 9:
Minnesotans of Color of all income levels face debt suits at higher rates

Black and Latino consumers are sued two to three times as often as Non-Hispanic White consumers.

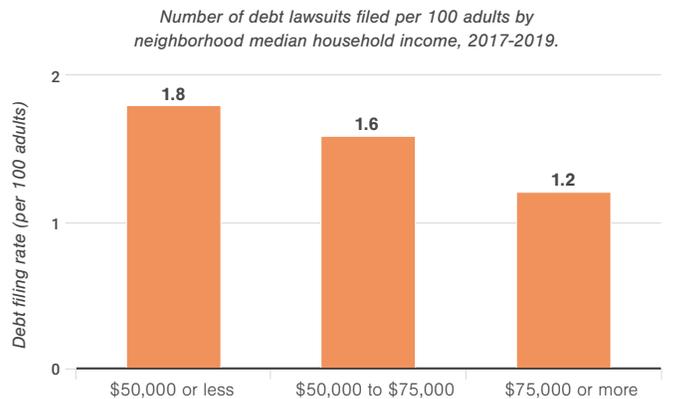
Number of debt lawsuits filed per 100 adults by race-ethnicity of defendant and neighborhood median household income, 2017-2019. Defendant’s race-ethnicity estimated using first defendant’s surname and race-ethnicity of census tract of residence.



Only among non-Hispanic White residents are debt caseloads highest among individuals in lower-income neighborhoods, where the median household income is less than \$50,000, and lower among those in higher-income neighborhoods, where the median household income exceeds \$75,000 a year.

This aligns with national data on borrowing. Although higher-income households tend to borrow more money through their credit cards than other households, the amount of credit card debt that lower-income households take on makes up a larger percentage of their monthly income and liquid assets.

Figure 10: Minnesotans living in lower-income areas are sued for debt in higher proportions
Debt litigation is brought more frequently against those living in neighborhoods with a median household income of \$50,000 or less than those above \$50,000.



Source: Minnesota Judicial Branch Civil Case Extract, 2017-2019; American Community Survey

Legal representation is uneven

Consumers rarely have legal representation; plaintiffs almost always do.

Consumers have legal representation in only 3% of district court cases and 0.2% of conciliation cases. Plaintiffs, on the other hand, have representation in 98% of debt cases in district court; in conciliation court, 69% of plaintiffs have an attorney.

Debt plaintiffs rely heavily on five specialized law firms. Those five firms represented plaintiffs in nearly 60% of cases filed in 2018-2021.

There is a huge divide between plaintiffs and defendants when it comes to their ability to navigate civil court processes because so many cases are litigated on the plaintiff side by law firms who are skilled in these cases, and many of these firms work on behalf of a handful of experienced companies whose business is buying and collecting on unpaid debts.

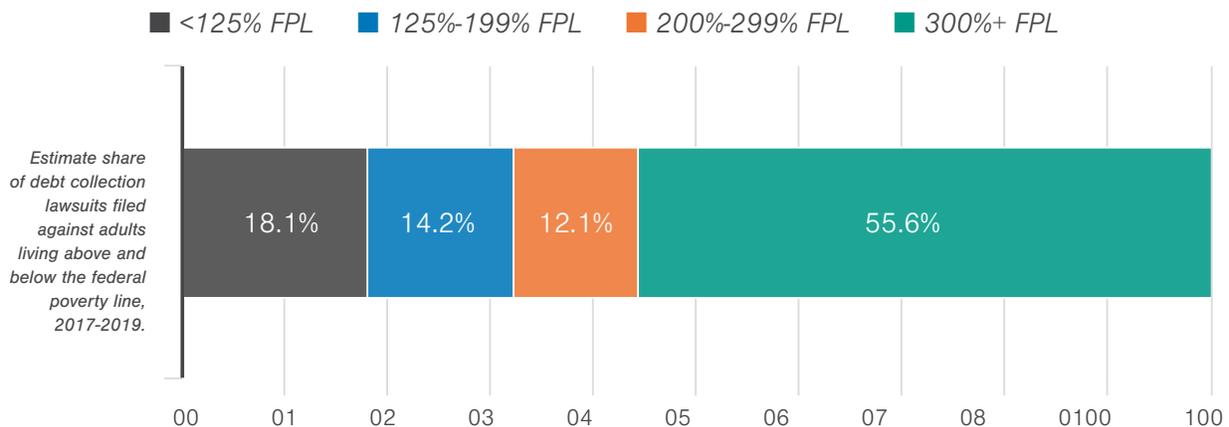
Conversely, many consumers involved in debt litigation may fall into the “legal aid gap,” meaning they do not have enough money to hire a private attorney, but they earn too much to qualify for legal aid services.¹⁰

The income threshold for most legal aid eligibility in Minnesota is 125% of the federal poverty line. For a family of four, that’s less than \$37,500 a year. Statewide in 2019, only 8.4% of families in Minnesota live below this threshold. Using census tract information, the research team estimated 82% of all debt collection cases filed in Minnesota from 2017 to 2019 were against consumers with household incomes ineligible for legal aid.

Nearly two-thirds of cases were filed in neighborhoods where fewer than 1 in 10 families qualify for legal aid. The disconnect between people needing free and affordable legal help and actually being able to qualify for it, coupled with the fact that Minnesota legal aid doesn’t have the resources and attorneys to meet the demand for assistance, meant legal aid programs were only able to serve 3,000 debt-related cases between 2019 to 2021. Absent programs or legal resources for mid- or moderate-income Minnesotans, a significant number of defendants in consumer-facing debt lawsuits are left to navigate the system on their own.

Figure 11: Consumers in debt span the income spectrum

More than half of suits are filed against Minnesotans earning less than \$75,000 for a family of 3 (approximately 300% of the federal poverty line), but litigation affects all income groups.



Source: Minnesota Judicial Branch Civil Case Extract, 2017-2019 American Community Survey

Research Findings

How cases are processed in district and conciliation court

- 1.** Debt cases in Minnesota can be handled in one of two venues, district court or conciliation court, which have very different processes and requirements.
- 2.** For cases involving \$4,000 or less, plaintiffs can choose the venue, leading to different outcomes for consumers with otherwise identical cases.
- 3.** One in 10 district court debt cases is filed eight months after service, leading to confusion when consumers seek information about the case from the courts.
- 4.** The answer process in district court is costly, unclear, and inconsistent.
- 5.** Debt litigation in district court often ends in default judgment.
- 6.** Most plaintiffs submit at least some of the required documentation materials, but many who don't still receive default judgments in their favor.

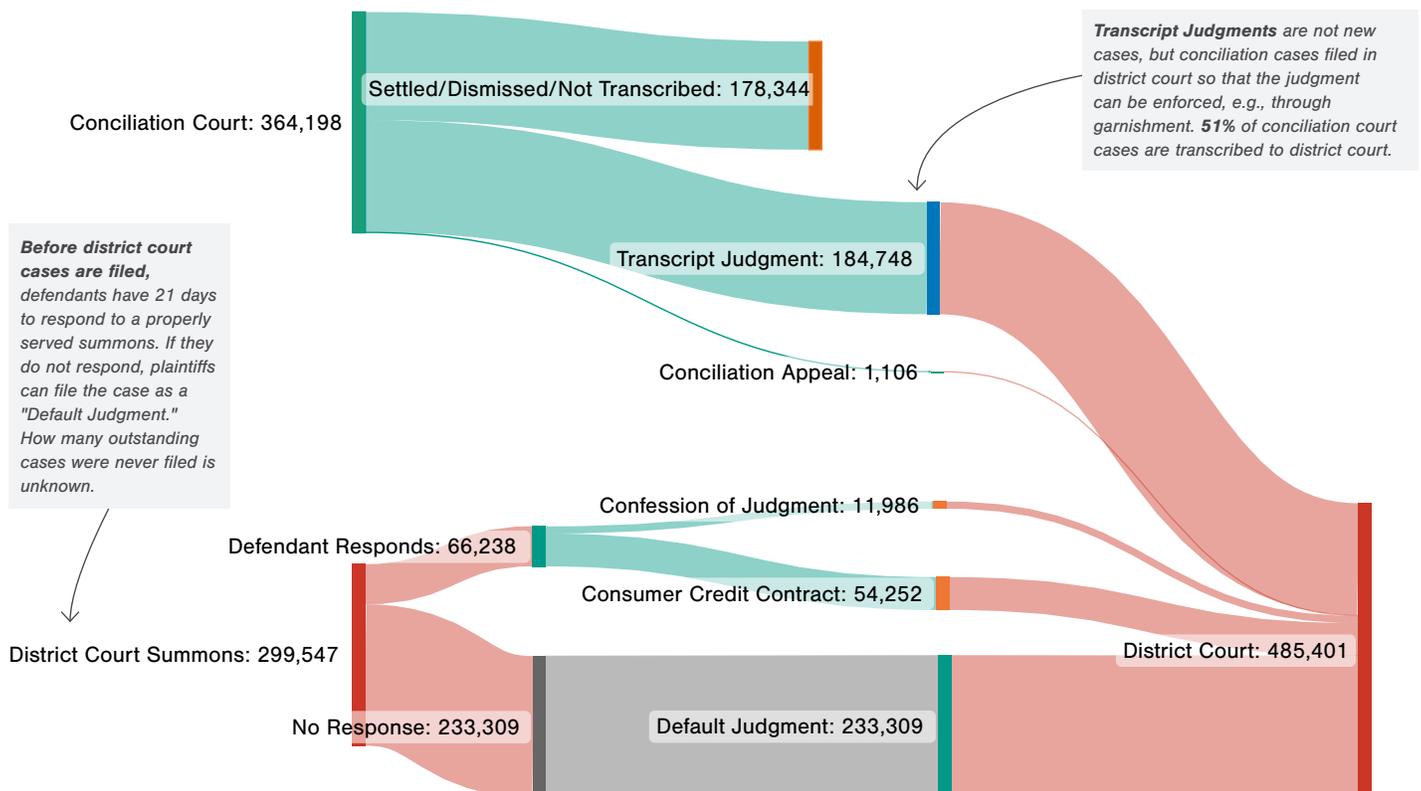
Debt cases in Minnesota are handled in one of two venues

Consumer debt collection cases in Minnesota are filed in one of two venues: district court or conciliation court. Between 2017 and 2019, approximately 57% of all debt collection lawsuits were initiated in conciliation court; the remaining 43% were filed in district court.

District court provides plaintiffs with the opportunity to seek judgments that enable them to collect money from defendants through various means, such as wage garnishment or seizing funds from bank accounts. Conciliation court imposes a limit of \$4,000 on the maximum amount of money at stake in a lawsuit. However, if a plaintiff in conciliation court intends to use the garnishment process to enforce a judgment, they can transcribe the judgment into district court and then do so.

Of the cases filed in conciliation court between 2018 and 2021 that resulted in a judgment, more than 60% were transcribed to district court for further legal proceedings and enforcement actions.

Figure 12: Volume of debt cases flowing through Minnesota’s civil courts
Conciliation and district courts both see a substantial volume of debt cases every year.



Source: January Advisors analysis of Minnesota Civil Judgment Extract

For cases involving \$4,000 or less, plaintiffs choose the venue

Conciliation courts in Minnesota were designed for the express purpose of creating a venue “where people can have their cases heard without complicated legal procedures.”¹¹ Sometimes referred to as the “people’s court,” conciliation court proceedings were designed to be easier to navigate by non-attorneys.

Minnesota court rules allow plaintiffs to file consumer debt claims involving less than \$4,000 in either conciliation court or district court. Venue choice varies from plaintiff to plaintiff. Some plaintiffs prefer to file all of their cases in district court, some file only in conciliation court, and others split cases across venues.

Because conciliation court cases can be transcribed to district court post-judgment, the choice of venue doesn’t seem to make a huge difference for plaintiffs, but does affect consumers. One of the biggest impacts is related to cost: when plaintiffs file cases involving small amounts in district court, it’s more costly for consumers, due to higher filing fees and other costs that are ultimately added to the judgment.

The difference between the judgment amount and the original claim amount is greater in district court (\$360 in district court, compared to \$80 in conciliation court). District court cases involve higher filing fees and court costs than conciliation court cases.

Nearly six in 10 debt cases filed in district court involve less than \$4,000, and around half of the cases in district court are for amounts under \$3,000. All of these cases are eligible to be filed in conciliation court.





One in 10 district court debt cases filed more than eight months after the defendant is served

Most plaintiffs who filed a case in district court did so within one to three months of serving a defendant, but some took advantage of Minnesota’s year-long grace period to file. One in 10 district court cases are filed more than eight months after the defendant is served.

Although fewer than 10% of cases are filed eight months or more after service, that number still reflects thousands of real Minnesotans facing the uncertainty of debt litigation hanging over their heads for months on end.

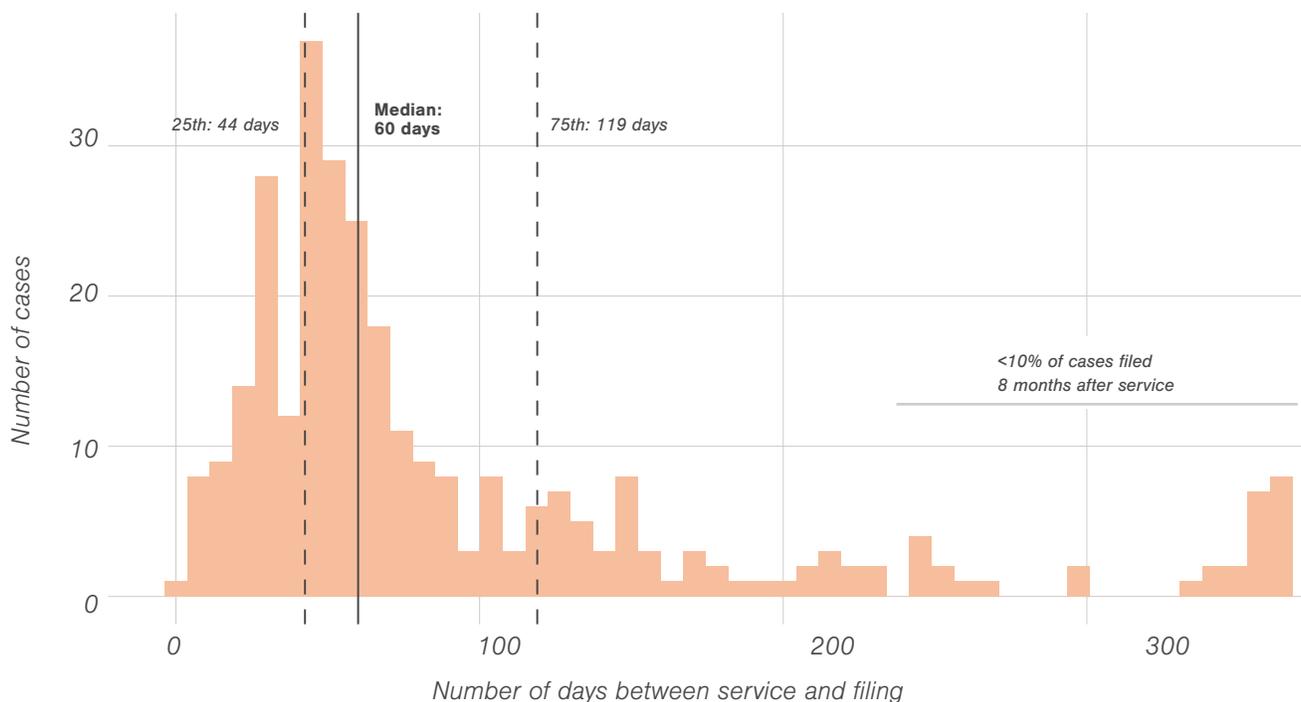
The yearlong grace period offers consumers and debt plaintiffs a window of opportunity to settle a case without filing.

It is impossible to know the number of cases that are settled after the defendant has been served but before the case is filed, since this process takes place entirely outside of the court process. These “ghost” cases are never known to the court because the plaintiff doesn’t have to file them in court.

Figure 13: One in 10 district court cases are filed more than eight months after service

Most cases are filed within three months of service, but some plaintiffs take advantage of Minnesota’s long window to file.

Distribution of district court cases (not including transcript judgments) by number of days between service and filings, 2018-2021.



Source: Random sample (N= 1,001 cases) analysis of Minnesota consumer debt cases, 2018-2021

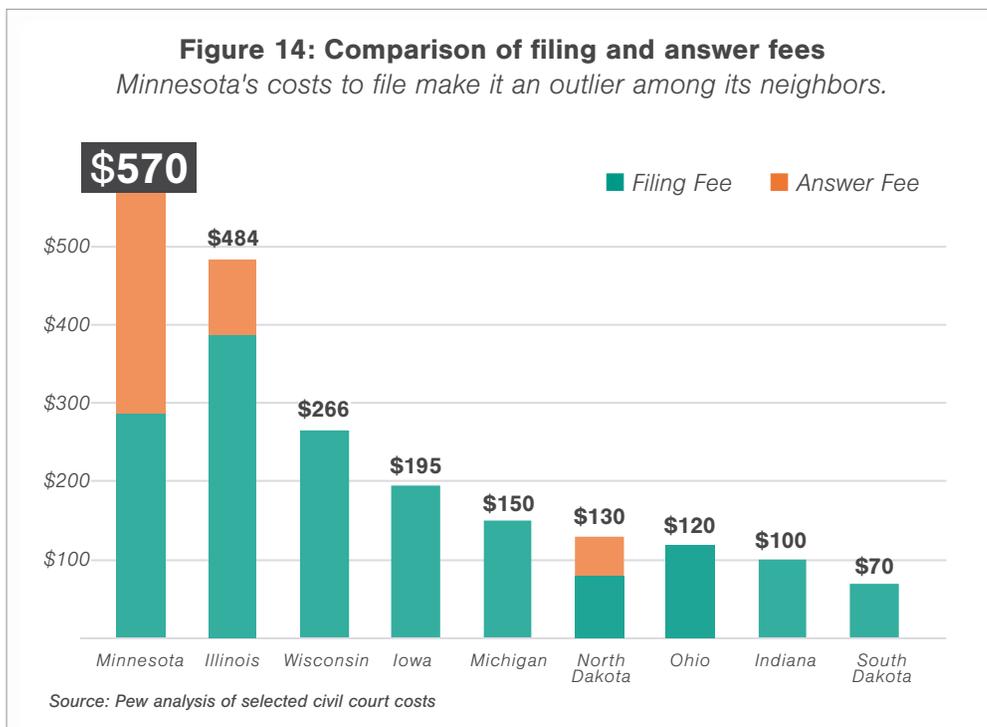
The answer process in district court is costly and confusing

In district court, consumers are required to file a formal answer to a case against them within 21 days, but doing so costs the consumer \$285 or more in “answer fees.” Defendants in conciliation court, on the other hand, aren’t required to file a written answer to either the plaintiff or the court before scheduling a hearing; if they wish to file a counterclaim, the cost is between \$65 and \$80. Most neighboring states’ civil courts do not collect answer fees in civil courts; those that do typically have much lower fees than Minnesota.

Information gained through court data shows that it is rare for a consumer to submit a formal answer with the court. Stakeholders shared that it is more common for defendants to submit some sort of response directly to the plaintiff instead of filing it with the court, and plaintiff attorneys we spoke with mentioned they will accept any written communication—it doesn’t have to be the court answer form. Lack of information may be partly to blame, but the courts have taken action to help consumers better understand the cases against them. In 2020, the district court summons ([CIV802](#)) was revised, along with the complaint form, to be more useful to self-represented litigants.¹² The updated paperwork provides some information for consumers who wish to contest a claim, but summonses do not include details on how to settle

the case, agree to a payment plan, or protect exempt assets from garnishment. The summons does, however, tell the consumer that “If you agree with the claims stated in the *Complaint*, you don’t need to respond. A default judgment can then be entered against you for what the Plaintiff asked for in the *Complaint*.”

Similarly, although the conciliation court process is slightly less confusing and involves fewer steps, its summonses only provide information about showing up for a hearing and submitting evidence, with no mention of how to settle a case, agree to a payment plan, or protect wages from garnishment.



In addition to the high cost associated with the formal answer process, which may deter consumers from responding, the answer process itself can cause confusion, due to the lag time between service and when a plaintiff files a case in district court (because conciliation court does not allow hip pocket filing, it eliminates the confusing process of requiring defendants to respond to a case that has not yet been filed in court).

An examination of a sample of 106 cases filed in district court since the revised form was adopted found that none of the plaintiffs were using the new form. Additionally, none of the forms the plaintiffs prepared included plain language instructions and links to the court’s help topic pages.



Most debt cases in Minnesota end in default judgment

District Court

When a consumer fails to respond, or file an answer to, a lawsuit, the matter ends in default judgment: an automatic decision in favor of the plaintiff when a defendant doesn't adequately participate in the case against them. Eighty-two percent of consumer debt cases filed in district court end in default, versus 54% in conciliation court. This rate may be higher because other states do not allow hip pocket service, which may indicate more cases being resolved outside of court.

This district court default rate is higher than in most states and above national numbers: in 2020, The Pew Charitable Trusts reported that more than 70% of debt collection lawsuits (in jurisdictions with available data) ended in default judgments for the plaintiff between 2010 and 2019.

Conciliation Court

For the 36,000 Minnesotans who are sued for debt in conciliation court each year, there are fewer barriers to participation. Conciliation court has no answer requirement and when a plaintiff files a case, the court automatically schedules a Zoom hearing.

Still, less than half of defendants show up to their hearing in conciliation court. When they do, they are often sent to breakout rooms with the creditors' attorney to negotiate a payment plan, without a third-party mediator and or any information about their rights provided by the court. At the moment, there's no conciliation court form available for defendants to deny or dispute the claim ahead of the hearing, or to guide them through available defenses, such as a debt being past the statute of limitations or having been discharged by bankruptcy.

Table 4: How costs add up for a consumer in a typical debt lawsuit in district court

Minnesotans with debt cases face a host of costs and fees in addition to the amount in controversy.

\$1,000 original claim	
+ \$167.00	pre-judgment interest and fees
+ \$285.00	filing and service fee
+ \$479.16	attorney fees (1/3 claim + interest + fee)
+ \$96.56	5% post-judgment interest rate
+ \$15.00	garnishment filing fee
\$2,042.72	total judgment by end of year

Because the typical debt lawsuit goes unanswered by the consumer, the \$285 district court answer fee is not included in this table.

Source: Minnesota Judicial Branch ¹³



District court cases add more costs for consumers

In addition to a higher answer fee, district court cases have other higher costs for consumers. Cases that result in a judgment against the defendant have a median final judgment amount that is approximately \$360 higher than the original amount, compared to \$80 higher than the original amount in conciliation court cases.

Plaintiffs in district court also request post-judgment interest more often than in conciliation court, which can end up costing defendants \$600 or more over the original judgment amount.

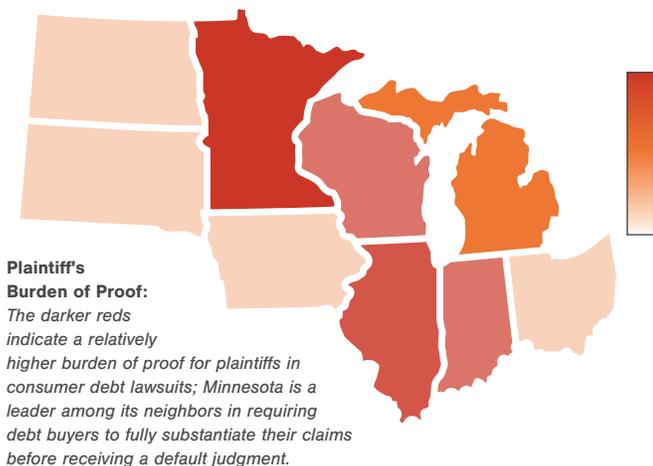
Documentation of debt

Minnesota leads the region in requiring plaintiffs to file documentation, but requirements only apply to debt buyers, and documents are not served to defendants.

When defendants in a district court debt case don't file an answer—likely due to confusing processes, associated costs, or other factors—plaintiffs can file for a default judgment. Minnesota, alongside California, Arizona, Texas and North Carolina, was a leader in requiring certain plaintiffs to prove the legitimacy of their claim and that they are the proper owner of the debt, even when the defendant does not participate.

Figure 15: Minnesota has higher plaintiff burden of proof than other Midwest states

The state leads region in requirements for debt buyers.



Source: Based on an analysis of court rules and state statutes that apply to debt collection lawsuits in state civil courts.

Minn. Stat. §548.101, enacted in 2013, requires debt buyers who are seeking a default judgment to file with the court proof of account, proof of amount, and proof of ownership of the debt.¹⁴ Before the court may enter a default judgment, debt buyers must submit the following documentation to the court:

1. Copy of the written contract
2. Proof the defendant owns the debt
3. Last 4 of defendant's SSN, if known
4. Proof of amount of debt
5. Name of original creditor
6. Breakdown of costs, fees, interest, as applicable
7. Valid and complete chain of title
8. Proof of service
9. Proof of 14 days' notice of intent to apply for default judgment.

Debt buyers are only required to file these documents when seeking a default judgment, but they do not have to include this information with the initial complaint or to serve them on the consumer with the notice of intent to seek default judgment. This means consumers can still receive summonses and complaints from a debt buyer they do not recognize without any information on the original creditor; in addition, they do not have access to documents to validate the legitimacy of the claim, the age of the debt, or the calculation of the amount, unless they go through the process to request them.

Debt buyers applying for a default judgment are also required by the statute to send an additional notice to the consumer. Even then, there is no requirement that the documentation proving the plaintiff's claims must be included in this notice.

Original creditors, such as credit card companies, banks, payday lenders, or hospitals, are not required to file any documentation proving the validity of their claim. If the defendant fails to participate, the creditor will get a default judgment without having to show additional documentation.



Estimating documentation compliance

Most debt buyers submitted at least some of the required documentation materials, but many who didn't still received default judgments in their favor.

Although this documentation requirement was implemented after a 2013 law change, to date, there has been little data on compliance.

To determine whether debt buyers have provided proper documentation in accordance with regulations, researchers spot-checked a representative sample of files for two of Minnesota's nine requirements. This analysis reviewed a random sample of publicly available documents in 1,000 cases filed in district court by debt buyers between 2018-2021, looking for proof of ownership and account. The analysis shows that in an overwhelming majority of cases (79%), debt buyers produced documents that met requirements. In 12% of cases, the documents were sealed, and in 9%, the debt buyer did not produce the required documentation.

Despite the requirement that these documents be filed before a default judgment is entered, almost all cases lacking proper documentation still ended in a default judgment (88% or 15 of the 17 cases reviewed).

The data also showed that the large debt buying companies that filed a high volume of cases each year with the same few specialized law firms had above average rates of documentation compliance. Smaller debt buyers were much more likely to be missing documentation.

Figure 16: Most debt buyers present required case documentation

Nearly 80% of debt buyer plaintiffs can show documents proving their ownership and the validity of the debt they are using the court to collect, but it falls to the debtor to challenge the veracity of those proofs.



- 12% documents are sealed
- 79% has both documents

Compliance status with documentation requirements for debt buyer cases filed in district court, 2018-2021.

Source: Hand sample (N=1,001 cases) analysis of Minnesota consumer debt cases, 2018-2021.

Research Findings

What happens after court

- 1.** Minnesota courts have very little oversight of the garnishment process.
- 2.** Long-term consequences of debt judgments can follow consumers for years.
- 3.** Debt case outcomes harm defendants but don't make plaintiffs whole.

Enforcing a judgment

Minnesota courts have little oversight of the garnishment process.

Garnishment is one of the few tools available to plaintiffs to collect an outstanding debt. Because garnishment is one of the most powerful tools the court offers litigants, in most states courts remain involved in this post-judgment process, usually requiring plaintiffs to request a “writ of execution,” which prompts the issuance of a garnishment summons to the consumer’s employer and/or financial institution to initiate the garnishment process.

In Minnesota, the process works differently, and mostly outside of the court’s oversight. Garnishment summonses are prepared by the plaintiff’s attorney and can be served to the consumer’s bank and employer directly, without filing any record of it with the court.

As a result, debt plaintiffs in Minnesota can have funds withheld from a consumer’s paycheck or can have their bank accounts frozen without the court having any knowledge of these transactions. If this happens, the plaintiff can seek a writ of execution from the courts, incurring a fee that is ultimately added to the judgment amount, or the consumer can voluntarily agree to have the funds released to the plaintiff by the

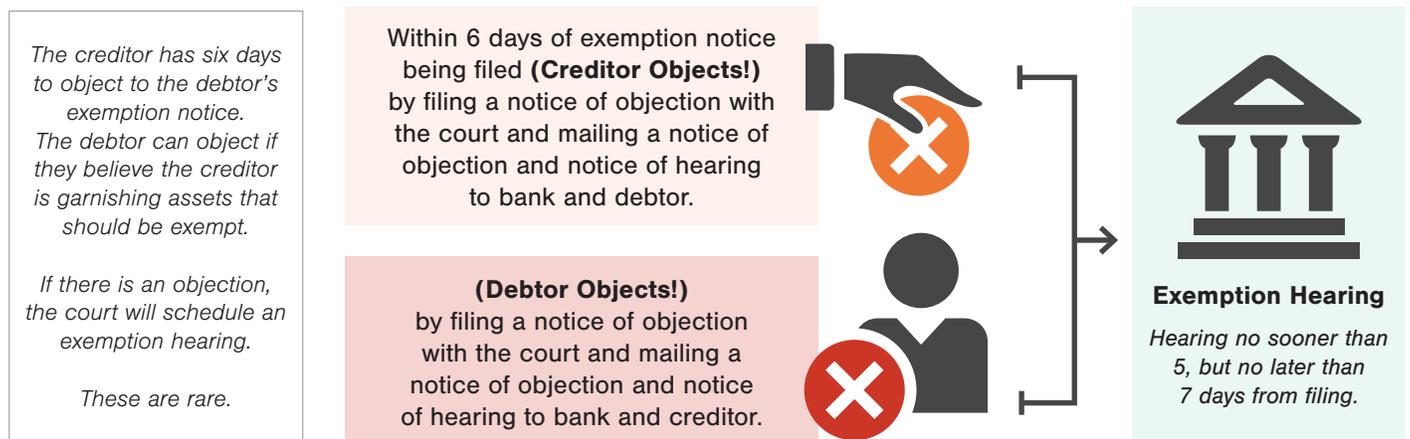
employer or bank.¹⁵ This is different from most states, where the plaintiff applies for a writ before they begin the garnishment process and communications with garnishees, and where the court issues the summons for the garnishees and notice to the debtors or, in cases like those in Illinois or Massachusetts, even holds a garnishment review hearing.

The state’s garnishment exemption process also operates outside of the court: defendants who believe that some or all of their wages or other assets are exempt from garnishment send their exemption forms directly to the plaintiff, rather than the court. In most states, the exemptions are filed directly with the court and it is up to the judge to review and approve them.

Minnesota has policies exempting anyone who receives means-tested public benefits from having their wages garnished. However, these exemptions are not self-executing, meaning the onus is on the consumer to assert that their wages are exempt to avoid the disruption of post-judgment seizure. Without additional data, it is difficult to ascertain whether and to what extent consumers are able to benefit from these protections. Defendants get a notice 10 days before their wages are withheld and have 10 days to claim exemptions. After they claim exemptions, they have to wait six more days for the creditor to object before they can get their wages back.

Figure 17: Disputing exemptions

Aside from issuing a writ of execution upon plaintiff’s request, the court will generally not get involved in the enforcement process unless one of the parties objects.



Source: Analysis of Minnesota policies, including Minn. Stat. §571.72

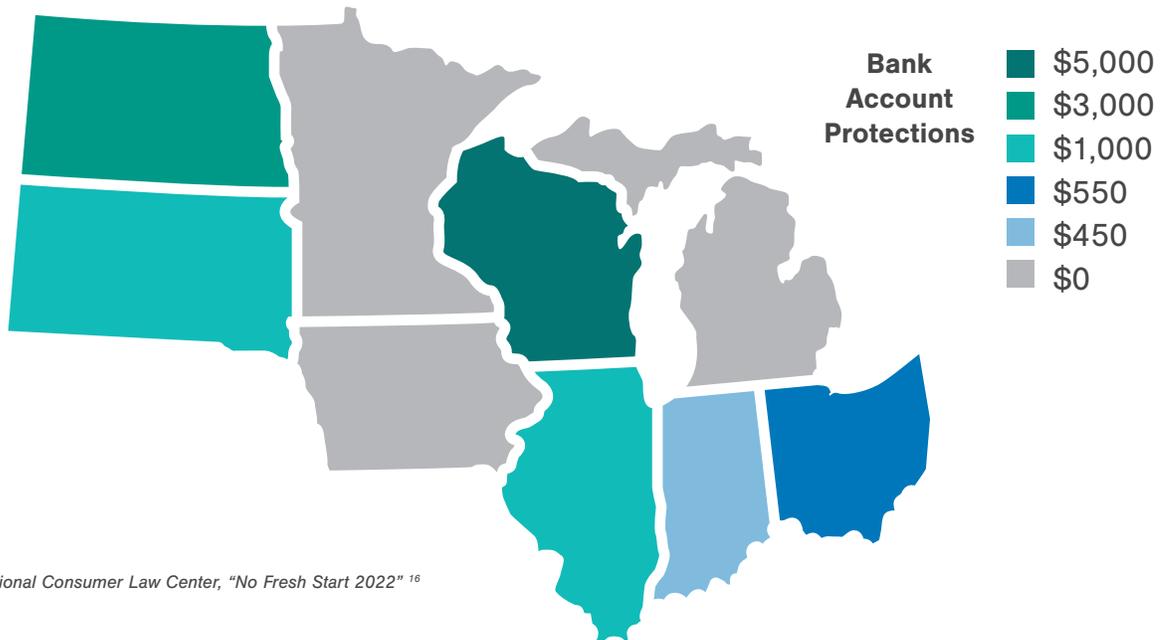
Minnesota is one of three midwest states with no bank account protections for consumers

Minnesota does not have a personal property exemption protecting funds in a bank account. The only funds exempt from seizure are federal and state means-tested benefits. Federal benefits tend to be electronically tagged so the bank can see that they are exempt assets, but state benefits like the Minnesota Family Investment Program (MFIP) are not, making it impossible for banks to discern that these are public benefits that are exempt. Wages deposited in a bank account are also exempt from seizure for 20 days after deposit, though the burden is on the consumer to show that they can be traced back to their employment. In the case of bank accounts, consumers don't get notice until two days after the funds are frozen, and then they have 14 days to claim that some of those assets should be protected, such as public benefits or wages. Creditors are given six days to object.



What this means for consumers is that their entire bank account, including protected assets, could be frozen before they even get notice, and that they can stay frozen for a week, with no access to any money to cover basic needs.

Figure 18: Minnesota 1 of 3 Midwest states with no bank account protections for consumers
Other states protect some amount in consumer bank accounts.



Source: National Consumer Law Center, "No Fresh Start 2022" ¹⁶



Consequences of debt judgments can follow consumers for years

Failure to understand and adequately participate in a complex debt lawsuit comes with serious financial consequences, from wage garnishment to bank levies. Consumers can struggle to pay the judgment against them and may also have difficulty paying for basic, everyday needs such as housing and transportation.

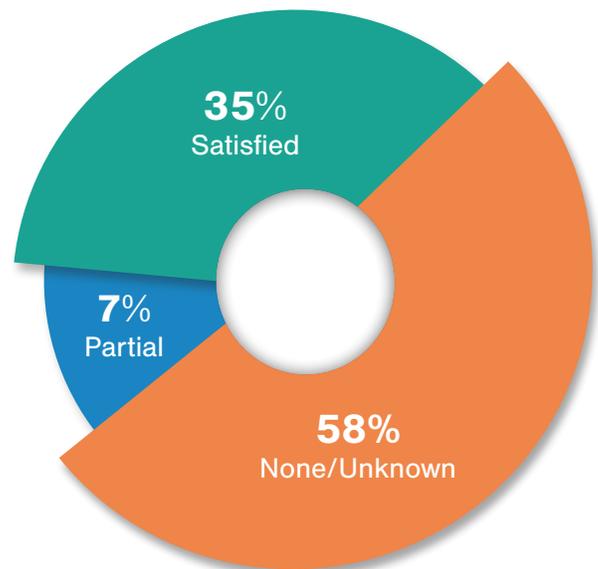
Debt case outcomes don't make plaintiffs whole

A judgment can wreak havoc on a defendant's finances and, by extension, their life, yet it still doesn't guarantee resolution for the plaintiffs. In an analysis of debt collection judgments in Minnesota, (based on cases filed between 2017 and 2019), researchers with January Advisors found that only 35% of cases with a judgment were recorded as satisfied (fully paid off). An additional 7% were just "partially satisfied," meaning well over half of the cases during that period remain unsatisfied.

Figure 19:

Only 35% of debt judgments between 2017 and 2019 were recorded as satisfied
58% of judgments during that period were either unsatisfied or not recorded.

Satisfaction of judgments among district court cases with a judgment, 2017-2019.



Source: Minnesota Judicial Civil Case Extract, 2017-2019

Most (58%) debt collection lawsuits with judgments have either not been satisfied or lack any information about satisfaction. The underreporting of satisfaction by plaintiffs can have adverse consequences for consumers attempting to resolve their debts. Filing satisfaction with the court allows consumers to demonstrate that they have paid their debts, ultimately helping them improve their credit prospects. When consumers have fulfilled a judgment but do not receive credit for it in court records, the burden of debt persists, exacerbating the cycle of debt and financial hardship.

Recommendations

1 Develop specialized procedural rules for debt cases to better manage consumer debt cases.

Requiring plaintiffs to file all consumer debt collection cases involving amounts under \$4,000 in conciliation court, standardizing documentation requirements, adapting court documents and forms to address high number of self-represented litigants, and eliminating “default judgment” as a case type are ways courts can take a more active role in case management.

2 Create and improve resources that enable self-represented litigants to participate in their cases.

Improved court forms for consumers, including plain language defendant answer forms, self-help materials, and online tools will help court users access information relevant to their cases and make participation less burdensome for people without attorneys.

3 Preserve economic stability so Minnesotans can afford basic needs while repaying their debts.

Ensuring funds sufficient to cover basic needs are protected from garnishment as well as improving communications and processes around garnishment, and garnishment exemptions, will ensure that Minnesotans in debt can resolve their issues without facing financial ruin.

4 Expand services for lower- and moderate-income people who are struggling with debt.

Improving and strengthening legal aid services and resources and making them available to a wider group of Minnesotans will allow people in debt to resolve their issues with less court involvement, saving time and costs for litigants and courts.

Recommendation 1: Develop specialized procedural rules to better manage consumer debt cases.

Consumer debt cases in Minnesota are characterized by their high volume and by the significant number of unrepresented litigants involved in suits. These factors pose a significant access to justice challenge for the courts because they must work to efficiently dispose of cases on behalf of those making a debt claim while ensuring that unrepresented litigants can fully participate. The Access to Justice Committee recommends that Minnesota courts consider adding specific rules of civil procedure for consumer debt cases (as has been done for housing and family cases) to facilitate the effective and equitable resolution of these matters.

- 1.1 Require that all business-to-consumer debt cases with an amount in controversy less than \$4,000 be filed in conciliation court.**
- 1.2 Improve how debt documentation requirements are implemented.**
 - 1.2.a Expand debt documentation requirements to all plaintiffs.
 - 1.2.b Require documentation of debt to be provided to defendants at the time of service.
 - 1.2.c Court adopts standardized practice to review documentation of debt.
- 1.3 Mandate and enforce the use of a standard summons for debt collection lawsuits.**
- 1.4 Use “consumer credit” for all consumer credit cases, including those filed by plaintiffs seeking default judgment as a potential outcome.**

1.1 Require that all business-to-consumer debt cases with amounts in controversy of less than \$4,000 be filed in conciliation court.

Minnesota consumer debt claims over \$4,000 must be filed in district court, but a debt claim under \$4,000 can be filed in either district court or conciliation court. This means that for a similar claim a consumer could have vastly different processes, outcomes, and added costs. Conciliation court was designed to be easier to navigate without an attorney, and the data show a higher rate of consumer participation in conciliation court than district court.

The Access to Justice Committee believes conciliation court is a more appropriate venue for debt claims under \$4,000. The Committee recognizes that this is a significant undertaking, likely requiring updated forms, a shift in resources, and consideration of the impact on judicial weighted caseloads and other metrics impacted by the high volume of low-dollar debt cases currently filed in district court. However, the Committee believes that using conciliation court as the sole venue for matters with \$4,000 or less in controversy will promote consistent experiences and outcomes for plaintiffs and consumers.

1.2 Improve how debt documentation requirements are implemented.

In 2018, the Conference of Chief Justices passed a resolution acknowledging several challenges that debt collection cases present for consumers and courts.¹⁷ The resolution noted issues such as consumers not recognizing the plaintiff's name, consumers not having enough information to assess the validity of the plaintiff's claim, and the high volume of default judgments leading to post-judgment consequences such as garnishment, among others.

For consumers, debt documentation helps verify the facts of a debt claim and their potential ownership of a debt. For the courts, debt documentation can ensure that debts are properly attributed and filed within the appropriate statute of limitations. The 2018 resolution calls for the adoption of rules requiring plaintiffs in debt collection cases to file documentation demonstrating their legal entitlements to the amounts they seek to collect before entry of any default judgment.¹⁸

1.2.a Expand debt documentation requirements to all plaintiffs and all cases.

Minnesota requires debt buyers who are seeking a default judgment to provide the consumer notice of their intent to seek a default judgment, and to file with the court documentation showing proof of account, proof of amount, and proof of ownership of the debt. When court staff review filings for sufficiency, they must ascertain whether the debt claim is being brought by an original creditor or an assigned creditor (i.e., debt buyer).

A majority of the Committee recommends extending the requirements established in Minn. Stat. §548.101 to apply to all creditors seeking a default judgment.¹⁹ This would parallel the 2023 Uniform Law Commission model Consumer Debt Default Judgments Act, which also applies to all creditors, and which was embraced by representatives of the collection industry, courts, and consumer advocates as a way to streamline the management of these high-volume cases and promote consistency for consumers and collectors.

Some committee members objected to extending documentation requirements to all debts, noting that Minnesota's existing requirements were designed to address problematic practices specifically associated with the debt buying industry, including suing the wrong person, suing for debt after the statute of limitations had passed, and suing for the wrong amount, in addition to issues arising from a lack of chain of title.

1.2.b Require documentation of debt to be provided to defendants at the time of service.

As it currently stands, plaintiffs are only required to share debt documentation when they are seeking a default judgment, not with service of the complaint and summons.²⁰

A majority of the committee recommends sharing debt documentation at the time of service to help defendants understand the origin of the debt, decrease the likelihood that defendants will perceive the summons and complaint as a scam, and ensure that defendants have a consistent window of time to review.

There was some objection to this recommendation based on privacy concerns that may arise where substitute service is used (i.e., when a person over the age of 18 living at the consumer's residence is served, rather than the consumer being sued, is used to satisfy service of process). Rather than disturb the status of substitute service as legally effective service, the Committee recommends consideration of options to mitigate the risk of sensitive information being improperly disclosed:

- Provide documentation in a closed packet addressed to the consumer, with the summons and complaint on top
- Provide a cover sheet with sufficient disclosures so that the consumer recognizes the debt, but no sensitive information past that threshold; and/or
- Require redaction of documentation prior to service.

1.2.c Court adopts standardized practice to review documentation of debt.

Court officials in both district and conciliation court shared that the review of documentation is difficult. There is currently no standard format to submit proof of the debt, leaving court officials to review pages of bank account statements, past due bills, and chains of assignment for every case. The process is onerous and our review of case documents found that even though most debt buyers submitted at least some of the required documentation materials, many who didn't still received default judgments in their favor.

The Committee recommends that the courts explore ways to standardize the submission of exhibits, using a standard civil cover sheet²¹ and labeling of required exhibits when uploading them on a platform such as MNDES.²² This practice would also facilitate automated review upon submission.

Additionally, the court may consider continuing to explore opportunities to centralize or regionalize work in this area. Having select subject matter expert staff working in this case type could increase the quality and number of cases that are reviewed for documentation. An intercounty approach to debt documentation verification might also be helpful for rural counties that do not see a high volume of debt cases.

1.3 Mandate and enforce the use of a standard summons for this case type.

Variation in documents used to initiate consumer debt claims means the court cannot ensure that defendants are getting consistent information about their rights and options, or that the information is in plain language and understandable for consumers without attorneys.

The Committee recommends standardizing and improving court forms used by plaintiffs in debt collection cases, both in district court and in conciliation court, and mandating and enforcing their use to ensure consumers are receiving consistent information in the same, easy-to-understand format.²³ Adding the following information to the current civil summons (CIV802) and conciliation court Statement of Claims and Summons would help consumers understand the processes and consequences related to their debt cases: language about the implications of a judgment, the option to contact the plaintiff and try to settle, and links to self-help information, legal aid and mediation services. Mandating the use of this summons as a requirement for filing would ensure it is implemented. This can be accomplished by revising Rule 5.04 in district court to give the court the power to reject filings without this form (Conciliation Court Rule 5.07 already requires the use of court-created forms).

1.4 Use “consumer credit” for all consumer credit cases, including those filed by plaintiffs seeking default judgment as a potential outcome.

Currently, “default judgment” in Minnesota can refer to both a case disposition and a case type. The use of “default judgment” as a case type is problematic for several reasons. First, conflating the case type with the outcome promotes a culture within the courts that the outcome of these court cases is essentially predetermined, undermining the court’s interest in fairness for all. To the extent that a consumer has been notified that there is a lawsuit against them and is aware of what “default judgment” means as an outcome, they may see the case type and assume that the case is already over and that engagement at this point would be futile.

Second, using “default judgment” as a case type creates challenges for research and evaluation of court dockets. Any number of civil actions that are not consumer debt cases could conceivably result in a default judgment; thus, the use of an outcome as a case type obscures the number of consumer debt cases brought to court as well as the breakdown and distribution of other case types across the state. It also makes it more difficult to measure defendant participation, because the case type does not include cases where the consumer answers but subsequently defaults later in the proceeding (this type of case is counted in consumer credit cases).

Without this information, it is more difficult for courts to evaluate the need for, and optimal deployment of, specific expertise, training, personnel, and other resources throughout the judicial system. It is also more challenging to evaluate compliance with filing and documentation requirements, by making it seem like these requirements only attach to cases filed as “default judgments,” and not to cases where the consumer answers but subsequently drops out of the case. Relatedly, the current practice also implicates the ability to evaluate the impact of policy and process changes, because it artificially separates cases that are substantively identical, making direct comparisons more difficult.

The Committee recommends that these cases be filed as “consumer credit” case types, with an indication that the plaintiff is seeking a default judgment, to allow courts to better collect and analyze data related to these matters. These outcomes in turn can bolster the court’s image and culture of fairness.

Recommendation 2:

Expand resources to empower self-represented litigants to participate in their cases.

Improving and expanding both court forms and self-help documents to better guide consumers without attorneys through the litigation process and make them aware of any alternatives available to them will help consumers better advocate for themselves and understand the different outcomes and consequences related to a debt lawsuit. Consumers who are informed and prepared to engage with their lawsuits can communicate productively with plaintiffs, benefiting all sides.

- 2.1 Improve the standard court answer form to include plain language descriptions of the common defenses to a debt lawsuit.**
- 2.2 Expand resources and materials provided by self-help centers and legal aid.**
- 2.3 Expand online resources that help litigants understand the impact of judgments.**

2.1 Improve the court answer form to include plain language descriptions of the common defenses to a debt lawsuit.

The 30,000 Minnesotans who are sued in district court for debt each year must respond to their lawsuits by providing an answer to the plaintiff. 82% of debt cases in district court end in an automatic win for the plaintiff because the defendant doesn't engage. The Minnesota courts currently have an answer form (CIV302) defendants can use to respond to a case against them.²⁴ It includes check-the-box affirmative defenses, but no plain-language explanation of what those mean, making it difficult for a person without an attorney to identify if any of those could apply to their case. Additionally, the current answer form requires the defendant to admit or deny each individual paragraph instead of responding to the claim as a whole.

The Committee recommends that the Minnesota Judicial Branch consider redesigning the answer form to be more intuitive and accessible to defendants without legal counsel, as states such as Alaska have done.²⁵ Additionally, the committee believes that although conciliation court does not have an answer requirement, consumers sued in this venue could benefit from information about available defenses. A standard notice or instruction packet about consumers' rights and options could be made available in advance of the hearing, and again before consumers enter any breakout room negotiations.

2.2 Expand resources and materials provided by self-help centers and legal aid.

The Committee believes that plain language and accessible documents should be used to help consumers without attorneys better participate in their debt cases. The committee recommends creating these resources and making them available both in print and online, in a variety of places where self-represented litigants can easily find them (legal aid kiosks, self-help centers), to benefit these defendants when other kinds of legal services or advice are not available.

2.3 Expand online resources that help litigants understand the impact of judgments.

The Committee believes that in addition to expanded self-help and legal aid resources, Minnesota needs additional tools to help consumers understand the consequences they face when they fail to respond to a case against them and receive a judgment. Online calculators and similar tools can help litigants understand the impact of post-judgment interest and garnishment agreements, giving them the information they need to file for garnishment exemptions and to otherwise mitigate the financial damage that a default judgment can bring.²⁶

Recommendation 3: Preserve economic stability so Minnesotans can afford basic needs while repaying their debts.

The consequences of debt litigation can be disastrous for consumers, with far-reaching impacts on housing and employment. Minnesota does not currently provide any blanket protection for amounts in a consumer's bank account; and even though wages are protected once deposited, there is an administrative burden for that to happen. For consumers living paycheck-to-paycheck, freezing sums in a bank account that is to be used for basic needs can be very disruptive and create a domino effect of instability as they get behind on other payments.

- 3.1 Exempt an amount of money in a consumer's bank account sufficient to meet basic needs.**
- 3.2 Electronically tag state benefit funds in a bank account to prevent exempt funds from being garnished.**
- 3.3 Revise Notice of Entry of Judgment to include plain language information about garnishment exemptions.**
- 3.4 Increase the duration of the writ of execution from six months to one year.**

3.1 Exempt an amount of money in a consumer's bank account sufficient to meet basic needs.

Currently, 12 states offer protections for wages deposited into bank accounts.²⁷ Some Great Lakes states, including Wisconsin, protect up to \$5,000 in deposited wages, but Minnesota doesn't currently have such protections for bank accounts in place. Emptying a bank account exposes consumers to housing instability from missed payments for rent and utilities, employment instability due to insufficient funds to cover costs for transportation and childcare, and additional financial instability due to overdraft fees and insufficient funds to meet minimum payments on other credit obligations.²⁸

The majority of the Committee recommends that some amount of money be automatically exempt from seizure to satisfy a judgment. This amount should be determined by policymakers to allow consumers to satisfy judgments against them while still paying for food, transportation, housing, and other basic needs.

There was strong dissent regarding whether additional protections were necessary, with some committee members defending the interest of creditors in having garnishment of a bank account as a tool for debt collection. Protecting too great an amount, for example, may render the majority of consumers with debt judgments immune from the enforcement of a judgment, and with little to no incentive to participate in settling their case with the plaintiff. If the court were instead to conduct an ability to pay inquiry, either during enforcement or earlier in the litigation process, consumers would be able to meet their obligations to plaintiffs while mitigating further financial instability.

3.2 Electronically tag state benefit funds in a bank account to prevent exempt funds from being garnished.

State benefits are typically exempt from garnishment, but in the process of requesting an exemption, a defendant's eligible benefits may be frozen or garnished. Feedback from both the consumer and creditor side noted that the judgment enforcement

process is much more streamlined when the financial institution can immediately identify whether a consumer is exempt from levy.

The Committee recommends electronically "tagging" state benefit payments that go to the consumer (such as those from the Minnesota Family Investment Program, General Assistance, Diversionary Work Program) to allow financial institutions to immediately identify exempt funds, which would avoid freezing funds of consumers who should not be currently subject to garnishment.²⁹ Financial institutions already employ similar processes to identify federal benefits, such as Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI).

3.3 Revise Notice of Entry of Judgment to include plain language information about garnishment exemptions.

Currently, the court's Notice of Entry of Judgment notifies a defendant of a judgment against them and contains a text-dense page on garnishment exemption that is written in legal language that may be difficult for consumers to understand.

The Committee recommends updating the notice packet to include a plain language explanation of garnishment exemptions and a list of resources that may help defendants identify and petition for such exemptions.

3.4 Increase the duration of the writ of execution from six months to one year.

Frequent renewal of garnishment writs is disruptive and costly for debtors and creditors, as new writs cannot be issued in a county until the plaintiff returns the existing writ (or files an Affidavit of Lost Writ) and pays the Writ of Execution fee. These fees are ultimately added to the judgment amount.

The Committee recommends increasing the duration of the renewal period from six months to one year to lessen the burden for all parties involved.

Recommendation 4:

Expand services for lower- and moderate-income people who are struggling with debt.

Minnesota's existing legal aid programs assist hundreds of consumers in debt each year, but they are unable to help everyone in need due to capacity constraints. Expanding these programs and widening the criteria for who is eligible for assistance would help lower- and moderate-income consumers through the debt litigation process.

- 4.1 Expand lower-income services through civil legal aid programs by aligning priorities and adding resources for coordinated statewide provision of advice and brief services up to at least 200% of poverty guidelines.**
- 4.2 Expand moderate-income services by increasing bar associations' unbundled services for people above legal aid income guidelines and expanding the Legal Paraprofessionals Pilot Program to include civil debt cases.**
- 4.3 Expand access to pre-judgment services for debt litigants to encourage early resolution of claims.**

4.1 Expand lower-income services through civil legal aid programs by aligning priorities and adding resources for coordinated statewide provision of advice and brief services up to at least 200% of poverty guidelines.

In examining Minnesota’s debt landscape, researchers found that the majority of debtors live on incomes that are slightly above the cut-off for service providers, such as legal aid. Even though these debtors are technically not “low income,” they are often working-poor families without specific resources to pay for legal services. That reality, plus the fact that only 4% of the legal services offered by Legal Aid in Minnesota were for debt cases, due to case priorities, means that there are far more Minnesotans in need of legal assistance than are actually receiving it.³⁰

The Committee recommends that Legal Aid examine the way cases are prioritized in the intake process, and that they and other service providers collaborate to develop a seamless referral system among them to connect more consumers with the help they need.

4.2 Expand moderate-income services for consumers in debt by increasing bar associations’ unbundled services for people above legal aid income guidelines and expanding the Legal Paraprofessionals Pilot Program to include consumer debt cases.

Current moderate means and unbundled programs don’t have enough lawyers to offer services for most debt defendants. The current reimbursement rates for unbundled services are not enough to attract lawyers in private practice to offer these services, despite the potential demand.

The Committee recommends allocating additional resources, whether from public funds or private philanthropy, to subsidize reimbursement and support sliding scale rates and to help these services reach those who could most benefit from legal help.

Additionally, the Committee believes that legal paraprofessionals may be able to help debtors understand their options pre-judgment or exert their rights post-judgment. The Committee recommends expanding the Minnesota’s Legal Paraprofessional Pilot Project, which began in March 2021 and was created to “increase access to civil legal representation in case types where one or both parties typically appear without legal representation.”³¹ The pilot does not currently cover consumer debt cases, but the Committee believes these cases are ideal for this project.

4.3 Expand access to pre-judgment services for debt litigants to encourage early resolution of claims.

Mediation services provided by both community agencies and the Minnesota Attorney General’s Office can help consumers reach equitable settlements with plaintiffs, but they are not easy for consumers to find. Currently, consumers are not generally told about these services at any point in the litigation process, and thus have to reach out themselves. Community mediators sometimes appear at conciliation court hearings and are available to mediate cases, but since there are no consolidated dockets for debt collection cases, they are not always available.

The Committee recommends expanding mediation services for debt collection cases, as well as consolidating dockets to make it easier for service providers to schedule availability when there is a cluster of potential clients. Because mediation is a voluntary process to which both parties in a debt lawsuit must consent, additional input on this recommendation from the creditors’ bar is encouraged.

Additionally, the Committee recommends exploring pilot debt diversion programs, based on either national models³² or modified versions of other Minnesota diversion models (such as those used in eviction).

Acknowledgments

The Leadership Team would like to thank the **Minnesota State Bar Association** and its **Access to Justice Committee**, including its co-chairs, **Veena Iyer** and **Kiri Somermeyer**, for their support of this project. In addition, we would like to thank **Associate Supreme Court Justice Paul Thissen** for his leadership and encouragement to help elevate the importance of consumer debt cases in Minnesota, as well as **Attorney General Keith Ellison** and **Deputy Attorney General John Keller** for providing their office's unique expertise and perspective. The foundation of this report is the extensive data analysis that provides the first comprehensive look at consumer debt court cases in Minnesota. That data collection and analysis would not have been possible without the patience, assistance, and coordination from the **Minnesota Judicial Branch Court Research Office**, as well as the dedication and insights of **January Advisors**, particularly **David McClendon** and **Divia Kallattil**, and **Pew Staff and Contractors Suzanne Brown-McBride, Charlotte Stewart, Giulia Duch Clerici, Lester Bird, and Erika Rickard**. Finally, thank you to the many MSBA member stakeholders, legal services staff, court officials, scholars, and consumers who shared their experience with consumer debt cases in Minnesota.

Methodology

Data sources

This analysis primarily relies on the Minnesota Judicial Branch's Civil Judgments Extract, a comprehensive dataset containing case-level information on civil judgments filed in Minnesota from 2011 to 2021. It includes details such as filing dates, case types, courts, party names, defendant addresses, judgment amounts, and judgment satisfaction status. In collaboration with the Minnesota Judicial Branch, we obtained a customized version of this dataset that encompasses all case filings, including dismissals and those from Conciliation Court, which are typically excluded from the Judgments Extract.

Additionally, we conducted a random sample of documents to gather further information about each lawsuit. We randomly selected and reviewed 1,001 cases filed between 2018 and 2021, accessing and analyzing publicly available documents associated with each case. Through this process, we developed a methodology to extract additional fields of interest, including the original amount in controversy, original creditor name, default judgment disposition, writ of execution, fines, and fees.

When conducting our analysis, we typically considered the entire ten-year time period to examine trends in debt collection filings, case outcomes, and other relevant data points. However, in order to provide a more meaningful comparison and account for significant changes in social, economic, and structural factors, we focused our benchmark years on 2017 to 2019. This period allowed us to capture a recent snapshot of debt collection cases unaffected by the unprecedented disruptions caused by the Great Recession and the Covid-19 pandemic.

For analyses related to neighborhood demographics, such as race-ethnicity and income, we used data from the 2015-2019 American Community Survey. This five-year period provides valuable insights into the characteristics of neighborhoods associated with debt collection cases.

Interviews with legal aid providers serving indigenous populations indicated that this group is, by-and-large, not as impacted by consumer debt litigation as other groups, due to a lack of access to credit and lending.

To gain insights into the support provided by Legal Aid organizations for low-income defendants in debt collection cases, we obtained anonymized intake data from Minnesota Legal Aid organizations. We excluded clients who did not receive assistance after the initial intake process. It is important to note that the data provided by Legal Aid organizations is anonymized within each organization, preventing the identification of individuals served by multiple organizations.

Additionally, we incorporated data from the Consumer Financial Protection Bureau's Consumer Complaint Database to analyze trends and patterns in complaints related to debt lawsuits. Furthermore, we used the 2017 Financial Well-Being Survey to estimate the number of defendants who may qualify for legal aid services.

Identifying debt collection cases

To identify debt collection cases within the Judgments Extract, we applied various filters. Initially, we focused on specific case types, including Default Judgments, Consumer Credit Contract, Confession of Judgment, Conciliation Appeal, and Transcript Judgments, as well as all cases filed in Conciliation Court.

It is important to note that in District Court, the majority of cases are classified as Default Judgments, which refers to cases where the defendant failed to respond to the initial summons. In other jurisdictions, Default Judgment is an outcome rather than a case type. Additionally, our analysis of documents revealed that the summons forms (created prior to case filing) indicate these as Consumer Credit Contract cases. Collecting both case type and outcome information at the time of filing would enhance the court's ability to identify consumer debt cases accurately in the future.

Methodology

Furthermore, we utilized plaintiff and defendant names to identify cases involving businesses filing against individuals or groups of individuals. Many Conciliation cases, for instance, involve businesses suing other businesses or individuals suing businesses, which are not classified as consumer debt cases.

Additionally, Transcript Judgments, which involve the transfer of cases from Conciliation Court to District Court for garnishment purposes, were excluded from most analyses to avoid distorting case filings and related metrics. These cases were considered duplicates because they involved the same underlying debt. By excluding Transcript Judgments, our analysis provides a more precise representation of unique cases, allowing for a more accurate examination of trends and metrics associated with debt collection cases.

Estimating racial disparities

In this report, although the court data does not directly record the race-ethnicity of defendants, we were able to estimate their race-ethnicity using a specialized algorithm. The 'Who Are You?' R package emerged as a valuable tool for this estimation process by leveraging information such as the defendant's address, the racial and ethnic composition of their census tract, and their last name.

The algorithm employs a Bayesian approach to determine the likelihood of an individual belonging to specific racial and ethnic groups. By cross-referencing the defendant's last name with a census list that categorizes last names by race-ethnicity, and considering the racial and ethnic composition of their census tract, the package generates estimations of the likelihood of their race-ethnicity, including the categories Non-Hispanic White, Black, Hispanic/Latino, Asian, or another race group.

Importantly, it is crucial to recognize that these estimations are presented as likelihoods, taking into account the inherent uncertainty involved. For instance, an estimation might indicate a person having a 60% likelihood of being Non-Hispanic White and a 40% likelihood of being Latino based on their last name and location. This approach allows us to appropriately divide the case into separate components, reflecting the probabilities assigned to each race-ethnicity category.

By incorporating this recognition of uncertainty, we are able to make more informed estimates about population trends, ensuring that our analysis acknowledges the inherent variability associated with estimating race-ethnicity based on available data.

For detailed insights into the methodology employed by the 'Who Are You?' package, please refer to the following link: <https://github.com/kosukeimai/wru>. This comprehensive methodology provides transparency and clarity regarding the approach used for estimating race-ethnicity, enabling a better understanding of the limitations and potential implications associated with these estimations.

Estimating the Legal Aid gap

To qualify for most Legal Aid assistance in Minnesota, defendants must have household incomes that are below 125% of the federal poverty line. The amount of income it takes to qualify varies based on the number of people living in the household.

Income and household size are not recorded by the courts and do not appear in the Judgments Extract or court documents. The share of defendants in debt collection cases who live above and below the Legal Aid threshold, then, has to be estimated. Our estimation strategy draws on two important pieces of information.

First, we take into account the share of households living at different levels of poverty in each defendant's census tract, according to the American Community Survey. For instance, if a census tract has 100 debt collection cases filed against its residents, and 20% of households in that tract live below 125% of the federal poverty line, we can assume that at least 20% of those debt cases are against defendants who qualify for Legal Aid.

Second, we take into account differences in the likelihood of facing a debt case between people of different levels of poverty. The biggest drawback to relying solely on neighborhood poverty levels to estimate defendant poverty levels is that we know people with lower incomes tend to be more likely than their richer neighbors to fall behind on debt payments and face a debt collection case.

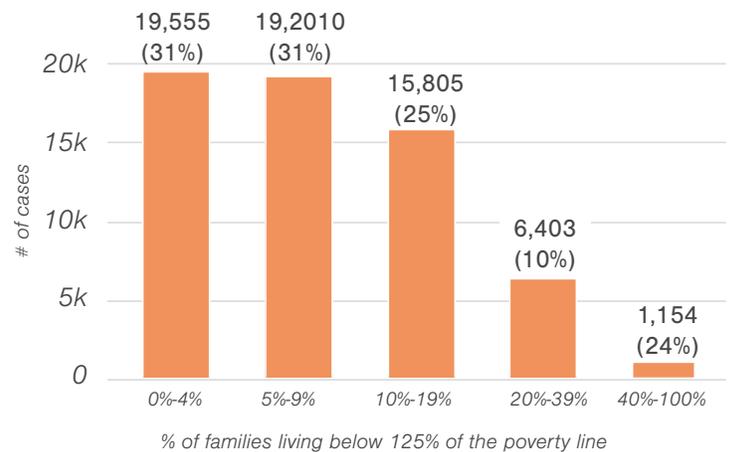
Methodology

But how large are these differences? To generate estimates of the likelihood of facing a debt case by poverty levels, we used the Consumer Financial Protection Bureau's 2017 Financial Well-Being Survey, a nationally representative survey of adults about their financial well-being. Using these data, we estimated that adults living below the poverty line were 2.5x as likely as those living above 200% of the poverty line to have been contacted by a debt collector in the past year. Adults living between 100% and 199% of the poverty line were 1.8x as likely as those living above 200% FPL to have been contacted by a debt collector.

We then used these estimates to enhance the neighborhood estimates of the number of debt cases against defendants who qualify for Legal Aid. The example below illustrates the impact of taking into account the CFPB likelihood in a hypothetical census tract with 100 debt cases and 17% of households living below 125% FPL. In effect, it doubles the number of cases that are estimated to be against defendants living below the Legal Aid eligibility from 17% to 30%.

This approach, however, still takes into account the neighborhood composition. In this case, the majority of households in the census tract (84%) live above 125% of the poverty line. Looking across all of Minnesota, most cases are filed in neighborhoods where very few residents qualify for legal aid. In fact, nearly two-thirds of debt collection cases are filed in neighborhoods where fewer than 1 in 10 families qualify for legal aid. This fact helps explain why our estimate of the number of cases that qualify for legal aid in Minnesota is so low (18%).

Nearly two-thirds of cases are filed in neighborhoods where fewer than 1 in 10 families qualify for legal aid.



Source: Minnesota Judicial Branch Civil Case Extract, 2017-2019; American Community Survey.

Example calculation of poverty levels for debt cases filed in a census tract.

	number of households	% of households	CFPB debt likelihood	estimated cases based on neighborhood characteristics only	estimated number of debt cases with CFPB likelihood
<100% FPL	179	16%	2.5	16	30
100-125% FPL	10	1%	1.8	1	2
125-199% FPL	98	9%	1.8	9	12
200% FPL	840	75%	1	75	56
total households	1127	—	—	100	100

Source: January Advisors

Appendix

Minnesota Statutes

Minn. Stat. §548.101 Assigned Consumer Debt Default Judgments

(a) A party entitled to a judgment by default in a conciliation court or district court action upon an assigned obligation arising out of any consumer debt that is primarily for personal, family, or household purposes and in default at the time of assignment shall apply to the court and submit, in addition to the request, application, or motion for judgment:

(1) a copy of the written contract between the debtor and original creditor or, if no written contract exists, other admissible evidence establishing the terms of the account relationship between the debtor and the original creditor, including the moving party's entitlement to the amounts described in clause (4). If only the balance owed at the time the debt was charged off or first assigned is claimed to be owed, evidence may include a monthly or periodic billing statement;

(2) admissible evidence establishing that the defendant owes the debt;

(3) the last four numbers of the debtor's Social Security number, if known;

(4) admissible evidence establishing that the amount claimed to be owed is accurate, including the balance owed at the time the debt was charged off or first assigned to another party by the original creditor and, if included in the request, application, or motion for judgment, a breakdown of any fees, interest, and charges added to that amount;

(5) admissible evidence establishing a valid and complete chain of assignment of the debt from the original creditor to the party requesting judgment, including documentation or a bill of sale evidencing the assignment with evidence that the particular debt at issue was included in the assignment referenced in the documentation or bill of sale;

(6) in district court cases, proof that a summons and complaint were properly served on the debtor and that the debtor did not serve a timely answer or, in conciliation court cases, proof that the party seeking the judgment or the party's attorney used reasonable efforts to provide the court administrator with the correct address for the debtor; and

(7) in district court cases, proof that the party requesting the default judgment or the party's attorney mailed a notice of intent to apply for default judgment to the debtor. The notice must be mailed to the debtor at the debtor's last known address at least 14 days before the request, application, or motion for default, and must be substantially in the following form: [Notice of Intent to Apply for Default Judgment, omitted for clarity]

(b) If admissible, the same item of evidence or document may be provided to satisfy more than one requirement under paragraph (a), clauses (1) to (5). A court may permit the foundation for documents submitted under paragraph (a) to be established by an affidavit.

(c) Except in conciliation court cases or if a hearing is required under court rules, the court may either:

(1) hold a hearing before entry of a default judgment; or

(2) enter an administrative default judgment without a hearing if the court determines that the evidence submitted satisfies the requirements of paragraph (a).

<https://www.revisor.mn.gov/statutes/2017/cite/548.101>

Rules of Civil Procedure

Rule 3. Commencement of the Action; Service of the Complaint; Filing of the Action

3.01 Commencement of the Action

A civil action is commenced against each defendant:

(a) when the summons is served upon that defendant; or

(b) at the date of signing a waiver of service pursuant to Rule 4.05; or

(c) when the summons is delivered for service to the sheriff in the county where the defendant resides personally, by U.S. Mail (postage prepaid), by commercial courier with proof of delivery, or by electronic means consented to by the sheriff's office either in writing or electronically; but such delivery shall be ineffectual unless within 60 days thereafter the summons is actually served on that defendant or the first publication thereof is made.

Filing requirements are set forth in Rule 5.04, which requires filing with the court within one year after commencement for non-family cases.

https://www.revisor.mn.gov/court_rules/cp/id/3/

Rule 26.01(a) Required Disclosures; Initial Disclosure

(1) In General. Except as exempted by Rule 26.01(a)(2) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information - along with the subjects of that information - that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(B) a copy - or a description by category and location - of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(C) a computation of each category of damages claimed by the disclosing party - who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(D) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(2) Proceedings Exempt from Disclosure. Unless otherwise ordered by the court in an action, the following proceedings are exempt from disclosures under Rule 26.01(a), (b), and (c):

- (A) an action for review on an administrative record;
- (B) a forfeiture action in rem arising from a state statute;
- (C) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;
- (D) an action brought without an attorney by a person in the custody of the United States, a state, or a state subdivision;
- (E) an action to enforce or quash an administrative summons or subpoena;
- (F) a proceeding ancillary to a proceeding in another court;
- (G) an action to enforce an arbitration award;
- (H) family court actions under Minn. Gen. R. Prac. 301-378;
- (I) Torrens actions;
- (J) conciliation court appeals;
- (K) forfeitures;
- (L) removals from housing court to district court;
- (M) harassment proceedings;
- (N) name change proceedings;
- (O) default judgments;
- (P) actions to either docket a foreign judgment or re-docket a judgment within the district;
- (Q) appointment of trustee;
- (R) condemnation appeal;
- (S) confession of judgment;
- (T) implied consent;
- (U) restitution judgment; and
- (V) tax court filings.

(3) *Time for Initial Disclosures - In General.* A party must make the initial disclosures at or within 60 days after the original due date when an answer is required, unless a different time is set by stipulation or court order, or unless an objection is made in a proposed discovery plan submitted as part of a civil cover sheet required under Rule 104 of the General Rules of Practice for the District Courts. In ruling on the objection, the court must determine what disclosures, if any, are to be made and must set the time for disclosure.

(4) *Time for Initial Disclosures - For Parties Served or Joined Later.* A party that is first served or otherwise joined after the initial disclosures are due under Rule 26.01(a)(3) must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.

(5) *Basis for Initial Disclosure; Unacceptable Excuses.* A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

https://www.revisor.mn.gov/court_rules/cp/id/26/

Minnesota General Rules of Practice for the District Courts | Title VI Conciliation Court Rules

Rule 505 Commencement of Action

An action is commenced against a defendant when a statement of claim as required by Rule 507 is filed with the court administrator of the conciliation court having jurisdiction and the applicable fees are paid to the administrator or the affidavit in lieu of filing fees prescribed in Rule 506 is filed with the administrator. Where authorized or required by Rule 14 of the General Rules of Practice for the District Courts, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

<https://www.mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Court%20Rules/GRP-Tit-VI.pdf>

Rule 508 (d) Summons; Service on Defendant

(d) Service on Defendant.

(1) If the defendant's address as shown on the statement of claim is within the county, the administrator shall summon the defendant by first class mail, except that if the claim exceeds \$2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice.

(2) If the defendant's address as shown on the statement of claim is outside the county but within the state, and the law provides for service of the summons anywhere within the state, the administrator shall summon the defendant by first class mail, except that if the claim exceeds \$2,500 the summons must be served by the plaintiff by certified mail, and proof of service must be filed with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice.

(3) If the defendant's address as shown on the statement of claim is outside the state, the administrator shall forward the summons to the plaintiff who, within 60 days after issuance of the summons, shall cause it to be served on the defendant and file proof of service with the administrator. If the summons is not properly served and proof of service filed within 60 days after issuance of the summons, the action shall be dismissed without prejudice. A party who is unable to pay the fees for service of a summons may apply for permission to proceed without payment of fees pursuant to the procedure set forth in Minnesota Statutes, section 563.01.

(4) Service by mail, whether first-class or certified, shall be effective upon mailing.

<https://www.mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Court%20Rules/GRP-Tit-VI.pdf>

Endnotes

- 1 Minnesota Judicial Branch, <https://www.mncourts.gov/About-The-Courts.aspx>
- 2 Minnesota is in the middle of the pack with regard to protections from garnishment and levy, however. Michael Best and Carolyn Carter, "No Fresh Start 2022: Will States Let Debt Collectors Push Families into Poverty as the Cost of Necessities Soars" (National Consumer Law Center, 2022), 71, https://www.nclc.org/wp-content/uploads/2022/12/NoFreshStart-22_Rpt.pdf.
- 3 Minnesota Rules of Civil Procedure Rule 3. Commencement of the Action; Service of the Complaint; Filing of the Action (2013), https://www.mncourts.gov/documents/0/public/rules/civil_rules_effective_7-1-2013.pdf.
- 4 For matters with amounts in controversy up to \$2,500, the court will serve the summons and complaint via first-class mail along with notice of the hearing date and time. For matters with amounts in controversy over \$2,500, it is the plaintiff's responsibility to serve the consumer with the summons, complaint, and notice of hearing, via certified mail. In either case, the consumer has a case number to reference when seeking information from the court; see also <https://www.mncourts.gov/mncourtsgov/media/CourtForms/CCT100.pdf?ext=.pdf>
- 5 Minnesota Rules of Civil Procedure 26.01(a) Initial Disclosure. (2013), https://www.revisor.mn.gov/court_rules/cp/id/26/.
- 6 See: P. Kiel, "So Sue Them: What We've Learned About the Debt Collection Lawsuit Machine," ProPublica, May 5, 2016, <https://www.propublica.org/article/so-sue-them-what-weve-learned-about-the-debt-collection-lawsuit-machine>.
- 7 January Advisors analysis of court docket data.
- 8 Federal Trade Commission, "The Structure and Practices of the Debt Buying Industry" (2013), <https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf>.
- 9 This estimate is based on the mean judgment amount for medical debt cases in the sample multiplied by the estimated number of cases in 2019.
- 10 Legal Services Corporation, "The Justice Gap: Meeting the Unmet Civil Legal Needs of Low-Income Americans" (2022), <https://isc-live.app.box.com/s/xl2v2uraitotbbzrhwtjlgj0emp3myz1>.
- 11 Minnesota Judicial Branch, "Conciliation Court (Small Claims Court)," accessed September 22, 2023, <https://www.mncourts.gov/help-topics/conciliation-court.aspx>
- 12 Minnesota Judicial Branch, "Court Forms," accessed September 7, 2023, <https://www.mncourts.gov/GetForms.aspx?c=7&f=825>.
- 13 Minnesota Judicial Branch, "District Court Fees," accessed September 7, 2023, <https://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx>.
- 14 Minnesota Stat. Ann. § 548.101, Assigned Consumer Debt Default Judgments (2013), <https://www.revisor.mn.gov/statutes/2018/cite/548.101>.
- 15 Office of Minnesota Attorney General, "Debt Collection - the Credit Handbook," accessed September 7, 2023, <https://www.ag.state.mn.us/consumer/handbooks/CreditHnbk/CH5.asp>.
- 16 Michael Best and Carolyn Carter, "No Fresh Start 2022: Will States Let Debt Collectors Push Families into Poverty as the Cost of Necessities Soars." https://www.nclc.org/wp-content/uploads/2022/12/NoFreshStart-22_Rpt.pdf
- 17 Conference of Chief Justices and Conference of State Court Administrators, In Support of Rules Regarding Default Judgments in Debt Collection Cases, Resolution 4 (2018), https://ccj.ncsc.org/_data/assets/pdf_file/0017/23453/08222018-debt-collection-default-judgments.pdf.
- 18 Ibid.

- 19 Minnesota Stat. Ann. § 548.101, *Assigned Consumer Debt Default Judgments*.
- 20 If the consumer responds, certain mandatory disclosures are triggered which include additional information. These mandatory disclosures were adopted as a way to streamline the discovery process in district court but were not designed with self-represented litigants in mind. With the overwhelming majority of consumers lacking access to legal assistance, providing key information at the time of service allows consumers to have the information they need to assess their options. Minnesota Rules of Civil Procedure 26.01(a) *Initial Disclosure* (2013); Minnesota Supreme Court Civil Justice Reform Task Force, “In Re: Minnesota Supreme Court Civil Justice Reform Task Force” (2011), <https://www.lrl.mn.gov/docs/2012/other/120214.pdf>.
- 21 For example, Illinois has special cover sheet to ensure plaintiffs are complying with statutory documentation of debt requirements. Circuit Court of Illinois, “Rule 280.2. Complaint in Credit Card or Debt Buyer Collection Actions” (working paper), <https://www.illinoiscourts.gov/Resources/4a602d48-5dac-4de3-b675-f864f1eb4dab/280.2.pdf>.
- 22 Minnesota Judicial Branch, “Minnesota Digital Exhibit System,” accessed September 7, 2023, <https://mndigitalexhibitsystem.courts.state.mn.us/>
- 23 The Committee does not recommend imposing a similar mandate on a consumer’s answer, as such a requirement might prove an additional barrier to participation for self-represented consumers.
- 24 Minnesota District Court, “Answer or Answer and Counterclaim Civ302” (working paper, 2021), https://www.mncourts.gov/mncourtsgov/media/CourtForms/CIV302_Current.pdf?ext=.pdf.
- 25 Alaska Courts, “Answer & Counterclaim to Complaint to Collect a Debt (Civ-481)” (working paper, 2016), <https://public.courts.alaska.gov/web/forms/docs/civ-481.pdf>.
- 26 North Carolina Judicial Branch, “Judgment Calculator,” accessed September 7, 2023, <https://www.nccourts.gov/services/judgment-calculator>.
- 27 Carolyn Carter, “Protecting Wages, Benefits, and Bank Accounts from Judgment Creditors,” National Consumer Law Center, accessed September 7, 2023, October 29, 2020, <https://library.nclc.org/article/protecting-wages-benefits-and-bank-accounts-judgment-creditors>.
- 28 Office of Minnesota Attorney General, “Debt Collection - the Credit Handbook.”
- 29 Minnesota Department of Human Services, “Income Assistance,” accessed September 7, 2023, <https://mn.gov/dhs/income/>.
- 30 January Advisors analysis of legal aid case intake data.
- 31 Minnesota Judicial Branch, “Legal Paraprofessional Pilot Project,” accessed September 7, 2023, <https://mncourts.gov/lppp#:~:text=The%20Pilot%20Project%20permits%20legal,disputes%20and%20family%20law%20disputes>.
- 32 Lancaster County, PA has recently launched a Consumer Credit Card Diversion Program to improve judicial effectiveness and court management of the high volume of civil debt cases. Lancaster Court Pennsylvania Court of Common Pleas, “Consumer Credit Card Diversion Program,” accessed September 7, 2023, <https://www.court.co.lancaster.pa.us/265/Consumer-Credit-Card-Diversion-Program>. See also: National Center for State Courts, “Tiny Chat 128: Credit Card Diversion,” accessed September 7, 2023, August 17, 2023, <https://vimeo.com/855476079>.

