

## TIMES INVOLVED IN LITIGATION

### **SERVICE OF SUMMONS & COMPLAINT**

Corporation – If not perfected on the corporation within 30 days, bailiff can serve Secretary of State, who notifies Defendant of service.

Individual – Personal service required. If bailiff cannot locate, lawsuit cannot proceed. If defendant is not served, lawsuit dismissed after 180 days.

**ANSWER** Defendant has 30 days after service to file an Answer in most jurisdictions. a) If no Answer filed – Default Judgment can be entered. b) If defendant's attorney files an Appearance – additional 30 days to file

### **COUNTERCLAIM**

**Counterclaims are normally filed with an Answer or, after 30 days, by permission of the court on Motion to Amend. Counterclaims require a Reply filed by Plaintiff within 20 days unless extension of time is requested. Counterclaims must be responded to within the allowed time frame or a Default Judgment can be entered against the Plaintiff along with a dismissal of the lawsuit.**

## **DISCOVERY**

Interrogatories, Request for Admissions, and Production of Document. 20 Days in most jurisdictions; 30 days in some. Extension of time **freely** granted by court.

If Defendant fails to file Answers or comply, Motion to Compel can be required after notice to Defendant's attorney. This entails a hearing at which court normally allows an additional 30 days from the date of hearing to comply.

**In most jurisdictions, Discovery will take 60–75 Days.**

## **TRIAL**

If Discovery is not successful in resolving FACT issues so that Plaintiff can file a Motion for Summary Judgment, then a Trial is necessary. (Appearance of a witness is **mandatory**.) Depending on the backlog of cases on the docket, the time before trial can vary from: **3 Months to 3 Years**

## **POST JUDGMENT PROCEEDINGS**

a) Appeal period – normally 30 Days. No action to enforce judgment may be taken during this period.

b) Writ of Garnishment – Served on bank, or account receivable, who has 20 days to answer. If bank or account receivable is indebted to debtor, most jurisdictions require a Motion to Condemn, at which time bank or account receivable will be given 10 days to pay in to court. Courts will normally remit within 30–45 days, overall time required — 60–75 days.

c) Execution – Issued for 60–90 days, but is normally ineffective. If successful, bailiff must levy, store and auction. Entire procedure can take from 60–120 days.

**d) Examination of Debtor – Requires personal service of a subpoena (treated as low priority by Court), and a hearing. Normally takes 60–75 days.**

Euler Hermes UMA  
600 South 7<sup>th</sup> Street  
P.O. Box 1672  
Louisville, KY 40201-1672  
Tel 502-583-3600 or 800-237-9386  
Fax 502-584-0443