

SOLO SUIT BAD ADVICE

Anything that helps you prevent a Default and get's your lawsuit Answered is generally a good thing. I am into new innovations and AI and ChatGPT as that is life: Change is good.

However, I have been receiving cases from clients that went through SoloSuit.com that offers free or paid for answers and pleading delivery services and I am amazed this company and that guy are doing what they are doing. In my opinion, they are giving people bad advice and in one critical area, cause people harm and money damages.

Before going further, I want you to remember how one gets in to Federal Court and then has to apply Federal Rules of Civil Procedure.

- **Diversity.** Cases that arise between the residents of two different states can proceed to federal court provided that there is more than \$75,000 involved.
- **Federal question.** Federal courts are tasked with resolving any case that involves a question with federal law. These can range from copyright questions to issues involving federal crimes.
- **Treaties and diplomats.** When cases impact the United States standing with other countries, federal courts are tasked with resolving matters.
- **Federal government cases.** If a person initiates a lawsuit against the federal government, the matter will be heard by a federal court.

The lionshare of Collection cases are well below \$75, 000 it is rare that two different state citizens are also involved in a collection case and \$75,000.

Also, collection cases are not federal questions unless you sue someone for violating your rights under a Federal Statute such as the FDCPA or the FCRA-Videos on those.

Also, collection cases don't involve Treaties or Federal Government cases.

In fact, our 14th Amendment restricts Federal intrusion of matters of state rights or state claims so the Federal Rules of Civil Procedure apply only when you have a Federal Case.

Why am I telling you that: George Simmons of SoloSuit is advising people to follow Federal Law and Federal Rules of Civil Procedure when they generally, if ever apply.

As you know, I have given you videos on the importance of the Counter Affidavit with Account Stated Cases. In Michigan and other States, you have to show a defense in the form of a counter affidavit where a collection suit is based upon an Affidavit or other documented evidence of your liability. The Specific Statute is MCL 600.2145.

MCLA 600.2145 requires that you provide a counter affidavit to the collectors affidavit showing either (1) the parties expressly agree upon the sum due or (2) the party receiving the account does not object within a reasonable time, in which case the receiving party's assent is inferred. **Fisher Sand & Gravel Co v Neal A Sweebe, Inc, 494 Mich 543, 557; 837 NW2d 244 (2013).**

MCL 600.2145 is Burden Shifting Statute, that means when an Affidavit attached to an Account State Statute occurs, the Burden of Proof (meaning what is to be proven to win the case) shifts to the defendant.

What do you think about the Burden of Proof, George:

“Oh, , you know, what ever, I don't know.”

In all actions brought in any of the courts of this state, to recover the amount due on an open account or upon an account stated, if the plaintiff or someone in his behalf makes an affidavit of the amount due, as near

as he can estimate the same, over and above all legal counterclaims and annexes thereto a copy of said account, and cause a copy of said affidavit and account to be served upon the defendant, with a copy of the complaint filed in the cause or with the process by which such action is commenced, such affidavit **shall be deemed prima facie evidence of such indebtedness, unless the defendant with his answer, by himself or agent, makes an affidavit and serves a copy thereof on the plaintiff or his attorney, denying the same.**

Plaintiff attached to its complaint an affidavit of the amount owed plaintiff as well as a copy of the account. Defendant failed to attach to its answer an affidavit denying the account. **The court held that the unanswered plaintiff affidavit under MCL 600.2145 created a prima facie case that defendant owed plaintiff the amount stated.**

Court held that defendant's evidence *did not* rebut plaintiff's prima facie case. The court further found that plaintiff established defendant's indebtedness owed, and the fact that plaintiff's bills were "excessive" did not rebut that indebtedness.

George Simmons from SoloSuit advises people in his Six Tips for Drafting an Answer in a Debt collection lawsuit.

Let's look at George's Tips as they relate to reality and where you live.

007-28 First Bad Tip Number #1: Don't Answer with any details.

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Rules to this thing.

I've been in this game for years, it made me an animal
It's rules to this shit, I wrote me a manual
A step-by-step booklet for you to get
Your game on track, not your wig pushed back

Refers to Federal Rule 7 (a)(2).

This is what Federal Rule 7(a)(2) Says:

Rule 7. Pleadings Allowed; Form of Motions and Other Papers

Primary tabs

(a) PLEADINGS. Only these pleadings are allowed:

- (1) a complaint;
- (2) an answer to a complaint;

Here is what Federal Rule applies Federal Rule 8:

Rule 8. General Rules of Pleading

Primary tabs

(a) CLAIM FOR RELIEF. A pleading that states a claim for relief must contain:

- (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;
- (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and
- (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

(b) DEFENSES; ADMISSIONS AND DENIALS.

(1) *In General*. In responding to a pleading, a party must:

- (A) state in short and plain terms its defenses to each claim asserted against it; and
- (B) admit or deny the allegations asserted against it by an opposing party.

(2) *Denials—Responding to the Substance*. A denial must fairly respond to the substance of the allegation.

However, George not only does not know the rules and is citing the wrong ones, but no one is in Federal Court that is being sued for collections. Collections are generally State Court cases and your local district or county court is where you are sued or you sue. I don't recall any collection case in Federal Court in 30 years of doing this. Why is George referring to Federal Rules.

STATE COURT RULES on Answering:

In Michigan for example, MCR 2.111 © governs. Here is how you are supposed to Answer: Now see Very Bad Tip #2:

No standard on line template for Affirmative Defenses>
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extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.courts.michigan.gov/4ae489/siteassets/forms/scao-approved/mc03.pdf

029Bad Tip Number #2: Deny Deny Deny. A lawyers best friend.

It is a lawyer's best friend because if you follow this time, you will need a lawyer to get you out of some pretty big mess.

George says Deny Pretty much everything.

So freaking wrong. The Rules (D) Form of Denials. Each denial must state the substance of the matters on which the pleader will rely to support the denial.

Lack of detail hurts you in that the debt collector law firm will:

File a Motion for a More Definite Statement; or

File a bunch of discovery to Answer including Request to Admits; or

File a Motion for Summary based on your failure to deny or based upon your failure to include an Account Stated Response Affidavit.

Tip #3 Bad again:

Around 039 seconds Just make sure you include Affirmative Defenses:

No standard on line template for Affirmative Defenses George says:

Here is the standard online template for Michigan with lots of Affirmative Defenses for STATE COURT-that is relevant, just wait.

chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.courts.michigan.gov/4ae489/siteassets/forms/scao-approved/mc03.pdf

He tells you that he will take care of you and then goes on to say what laws apply to answering the lawsuit at around 1:08 He says: He is telling you the laws that apply and calls the Rules of Civil Procedure are the laws that govern the situation.

He then cites the Rules of Federal Procedure because, quote, the Federal Rules are for the Rules of the nation. They are not, the Rules of Federal Procedure are how to practice in Federal Court. Collection cases are in State Court. **Totally off the wall wrong.**

Refers to Federal Rule 7 (a)(2). Says it is a Court Document that mentions an Answer to the complaint. It is not, it is just a rule telling you what pleadings are allowed in Federal Court. Collection Cases are in State Court.

This is what Federal Rule 7(a)(2) Says:

Rule 7. Pleadings Allowed; Form of Motions and Other Papers

Primary tabs

(a) PLEADINGS. Only these pleadings are allowed:

- (1) a complaint;
- (2) an answer to a complaint;

At 1:39-1:47 Then George says that you do two things when you answer a complaint:

You admit or deny, paragraphs to the complaint and then you state your defense. Those are the only things you do.” No, there is a lot more than that if you want to have a chance to win.

Admit, Deny or You can Deny for lack of Knowledge. “Oh, , you know, what ever, I don’t know.” Lack of Knowledge is something George knows about.

Here is what George say about Denying for Lack of Knowledge-now this is **a guy who wants you to believe HE has knowledge**: Time 2:39 Admit, Deny or You can Deny for lack of Knowledge. “Oh, , you know, what ever, I don’t know.” Lack of Knowledge is something George knows about.

You admit or deny, paragraphs to the complaint and then you state your defense. Those are the only things you do.” No, there is a lot more than that if you want to have a chance to win.

George says at 2:54 if you agree with part of the paragraph but not with other parts, **deny the whole thing**. But that would be a false statement. You should deny what you don’t agree with and admit what you do agree with. Otherwise, it is not a truthful response.

George also says at 3:07 “Attorneys always say “Deny, Deny Deny” (They don’t) you don’t have to admit anything, you can just deny everything. He support is Attorneys say to do that. Holy Shit this guy is getting people in to real financial trouble if they are not telling the truth and signing off on that.

At 3:21 George say there are a lot of forms online don’t have the affirmative defenses you need. Here again is Michigan’s forms online with Affirmative Defenses:

No standard on line template for Affirmative Defenses>
chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.courts.michigan.gov/4ae489/siteassets/forms/scao-approved/mc03.pdf

He refers to Federal Rule 8 © at 3:30 These are state court cases.

BIGGEST BLUNDER

No mention of the most important Affirmative Defense is the Counter Affidavit as most collection cases are based upon Account Stated Claim.

So, if the collection case against you has an Affidavit or documents against you under MCL 600.2145 and you don’t respond to this, then you automatically lose

Defendant failed to attach to its answer an affidavit denying the account. The court held that the unanswered plaintiff affidavit under MCL 600.2145 created a prima facie case that defendant owed plaintiff the amount stated.

6:29 Federal Rule 12b. This is State Court!

Bad Tips about the Forms of the Pleading:

He advises to put your email address on the document. So, there the debt collector and everyone else who can view your personal information now has your email address.

At 10:40 George Claims it is tough create a Caption using Word so use SoloSuit. Nothing could be further from the Truth. It is like saying using email is tough so send a letter.

George talks about Certificate of Service at Tip #5 11:00. And then quotes Federal Rules again.

He then refers to his own Solo Suit Document showing you what a Certificate of Service looks like. That's document showing that you served the attorney, any other parties and the court with you document or Pleading. This is the video he created:

At 11:24 He says that here is what a Certificate of Service and what it looks like:

11:39-11:52 This is his own video and he screwed up the Certificate of Service that he wants solo suit customers to rely upon.

Refers to Rule 11 of the Federal Rules. Collection cases are in State Court!

Again refers to Federal Rules. State rules are more nuanced.

He creates his own video but screws up his own directions:

Court address.

George states in his video at 13:01 that you can deny pretty much whatever you want as it is up to the other side to prove that everything is true.

Not true in a state collection account stated lawsuit. A collection lawsuit with an Affidavit shifts the burden of proof on to the Defendant

Refers to Signing the documents under Federal Rules. State rules allow electronic signatures.

George says again, Deny because that is what attorneys do: He forgets the most important thing, A. that's not true and B, Attorneys are not in the case, they represent a party so no attorney denies anything, you do.

Lack of detail hurts you in that the debt collector law firm will:
File a Motion for a More Definite Statement; or
File a bunch of discovery to Answer including Request to Admits; or
File a Motion for Summary based on your failure to deny or based upon your failure to include an Account Stated Response Affidavit.

So, if you want to follow this guy's instruction, Caveat Emptor, Buyer Beware.

In my opinion, these instructions from a guy not practicing in Michigan is a bad idea and will cost you more money: Nothing is Free. Good luck.