

# How To Win A Debt Collection Lawsuit

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One of the first actions we will take on your behalf is to send a letter to the creditor notifying them of our attorney-client relationship. Also the agency should be insured so that in case it ever goes out of business, the amount recovered on your behalf should not be used in resolving their claims. You could have paid that amount already and the debt collection lawyer in California is using old data from your original creditor. You also end up saying money if you get a lawyer since they will check the debt if it matches to how much you really owe. Peace of mind and acquiring the money you have been promised are major advantages of hiring a debt collection agency. A collector can hound you about money owed, but he can't use obscene or abusive language or make violent threats. The FTC or Federal Trade Commission has a collection of publications made to help customers learn about the Fair Debt Collection Practices Act, a law that protects their rights-under the act, nuisance and harassing phone calls, abusive language and threats are illegal. These should be taken note of and reported to your state's attorney general's office and the FTC.

Never give your credit card account number, bank account information, or Social Security number out over the telephone unless you are familiar with the company and know why the information is necessary. A third party debt collector is a person or company that collects debts originally owed to a different person or company. Call a credit repair company for support. There are limits to time and place of phone calls, but a call in and of itself isn't illegal. Because of the Telephone Consumer Protection Act, consumers are protected from debt collections calls to their cell phone unless they expressly gave consent to receive calls. In 2011, Olivea Marx defaulted on her student loans and was receiving calls from a debt collections company, General Revenue Corporation (GRC.) She decided to sue because she felt that the debt collector was engaging in harassment. To file a complaint about a debt collector or creditor's in-house collection agency, contact the Consumer Financial Protection Bureau.

Although the lawyer for your creditor contacts you and inquires about your credit card debt, it does not mean that the case will go to the court immediately. 5. Not talking. Credit card debt collection businesses usually find the debt. Correspondences from an attorney have a greater chance to obtain a response than one that is sent by other resources like a collection agency. You should generally respond to debt collection letters - especially if they come from a creditor attorney - or else you may miss the chance to negotiate settlement with your creditor while minimizing litigation expenses. If these don't work, then another tactic they might use to get you to pay the debt is by using a debt collection agency. The act further never allows them to use derogatory or rude language while contacting with the debtors. They can arrange for the subpoenas and perform document searches to see the bank account details of the debtors. If you legitimately owe money and want to make a deal to pay, never give a collector your checking account number over the phone. Requesting validation of the debt basically means that you are asking for information about the balance, date of last payment, identification of the original creditor, and who presently owns the account.

It may escalate to a point where legal action is necessary, but sometimes, depending on the situation, it may just be a permanent injunction. Cease and desist order imposes a court-ordered injunction on an entity to suspend alleged illegal activity. The document may come with a warning of an impending lawsuit should the recipient fail to discontinue the specified suspicious activity or take a particular action within the stipulated deadlines. Statutes of limitations govern the timeframe in which one party may exercise legal action against another. The lawyer may explain that the paper you have to sign is for your "payment agreement" but it might say only that. To know about your rights, it is advisable that you should take the help of a lawyer who is well aware of FDCPA violations and the rights that are available for the consumers under this act. Unlike the order, a cease and desist letter isn't legally binding but a reflection of opinion, typically that of a lawyer. The prevailing perception around cease and desist letters is that they're exclusively used in the intellectual property landscape, especially in copyright infringement, which isn't entirely accurate. Cease and desist letters typically require a delivery confirmation signature and are mailed with a request for a return receipt though it's not a requirement.

Remember - You do not have to talk to debt collectors when they call you. Small businesses typically call collection agencies when they've gotten nowhere in their efforts and the debt is getting old. The extent of punishment will depend on whether the creditor's collection efforts intentionally violated the discharge order, did so recklessly, or negligently; on how aggressively it acted; and on what damages it caused. "Paying any portion of the debt is generally considered an admission of the debt and will typically restart statutes of limitations," says Rob Drury, Executive Director, Association of Christian Financial Advisors. False Statements - a collection agency may not use false or misleading statements to collect a debt.

Continue to try to collect debts after consumers disputed them in writing, and before verifying the debts. Both the companies are related and owned by same individual, Archie Donovan, and collect debts on the part of payday lending companies.

Obviously, there is ridiculous amount of data available now through the internet, through data bases, through information technology and a lot of people aren't aware of what can and can't be used. As illogical as it may seem (because, lets face it, if you couldn't pay the original debt, odds are there's no way you're going to be able to afford an even higher amount), this practice benefits both the creditor and the debt collector. If a debtor doesn't pay the debt, a collector can't make use of violence or other criminal measures to harm the person's reputation, or his physical property. The FDCPA does not restrict an original creditor collecting its own debt, unless that creditor is operating under another name to collect the debt. So, it's really based on what the original creditor did and we - we're not psychic - we only know what we know. We'll go to whatever data the creditor had. So, the data could be good or it could be bad. You were my guest all the way back on show number 20 and this is show number 57. So, that was about nine months ago that you were on the show.

In the above clip, Thomas Lowery, Peter Holland: a Consumer Protection Attorney with the University of Maryland, and Brandon Black discuss default judgments and the quality of of the documentation that is commonly produced. When you consider these dynamics, I personally believe, if you're in a position to where you can't afford to pay anything, that your best protection is to mingle with the tens of thousands to hundreds of thousands of accounts that the collection agency or junk debt buyer is servicing, and to maintain a defensive rather than offensive position. In the above clip, Heather Allen explains that consumers dispute 3.2% of accounts that are being collected by junk debt buyers. In the above clip, Brandon Black explains why they are less negotiable when they pursue litigation. In the above clip, Thomas Lowery, Assistant Attorney General in Maryland, explains that a lot of debt-buyer agreements (previous to 8-4-2014) allow for a small percentage of the documents to be obtained without additional expense.

In the name of thin-profit margins, the current mortgage foreclosure crisis has pushed many loan servicers and bank attorneys to limits of these consumer protection laws. Should you consider a debt consolidation loan? Fin. Grp., Inc., the court determined that the debt collection agency had violated the law when a debt collector repeatedly called Mr. Chiverton at work even though Mr. Chiverton told him to stop. If you are being called multiple times of the day or are being called without your consent it is important to know your rights against debt collectors that harass you for payment or information. Finally, the consent decree would require the firm to notify all future customers in the initial collection letter of their right to ask G&L in writing to stop contacting them, and to notify all employees of the FDCPA's requirements and their individual liability for violations. This could be important should the debt collection agency not respect your wishes and you end up alleging FDCPA violations. If you are on the receiving end of debt collection calls and you want them to stop, your first line of defense is to request that they stop calling.

This process is also not applicable to financial institutions authorized to do business in the state or their subsidiaries, real estate brokers, insurance companies authorized to do business in the state or any consumer finance company and wholly owned subsidiary thereof. Protecting consumer privacy is an essential element of compliance with Fair Debt Collections Practices Act regulations. Under the laws of fair credit reporting act no one can get a copy of your credit reports without your permission. A reminder of the unpaid balance might stay on your credit reports for even longer than the time that debt collectors have to sue. Also, if you do dispute the debt and the collector reports to credit reporting agencies, they must list the debt as "disputed" on your credit reports. What this subsection tells us, is that the first notice you receive from the collector should always contain the basic details of the debt (balance, debtor, creditor etc.) and your right to dispute the debt. If he narrates his name and other details thank him and tell him that under the FDCPA USC 15 Section 809(a) you will expect a written contact from him within five days.

If the deceased left a will and the estate has gone to probate, debt collectors can attempt to satisfy their claims from the assets of that estate. Debt collectors must also disclose that they are trying to collect a debt and that any information they obtain from you may be used for the purpose of assisting them to collect a debt from you. "You sold my personal information to a bunch of thugs," Therrien recalls telling the man. Once you make a payment over the phone, the checking account information is forever saved within the collection agency's system. This typically works. If a debt collector calls you after you make the request, you are entitled to take legal action. Appeals can take months to years, and in most jurisdictions no collection action can take place during the appeal. Appeal if you lose the trial. Tell the judge you have taken off from work and are ready for trial.

Once you pay your bills, mark your copy or section of the invoice with the date the bill was paid, the amount paid, and if you want, the check number. Make sure to designate several regular days per month to review and pay your bills - say the first or the fifteenth, then make sure you sit down at your desk to pay them, with your checkbook(s), a pen, stamps, tape, a stapler, envelopes, a calculator and return address labels. When you get the mail, sort through it and separate out your bills, then immediately place your pending bills in a basket, or file folder marked "Bills to Pay" or "Pending Bills." Keep them together in one spot; open them and place the payment envelope up with the date of when the bill is due marked visibly on the back of the envelope. And remember, if you need a little extra cash to pay all of your bills, there is an alternative solution that might help, called invoice factoring.

Unfortunately, this is little more than a formality. This makes them more gung-ho to collect from you, regardless of whether or not you can prove you legitimately don't owe the debt. The FDCPA says that, within five days of first contacting you, a debt collection agency must send you a letter in the mail outlining the amount that you supposedly owe, the original creditor, and your right to dispute the debt within 30 days. If that collection account on your credit report isn't yours, notify the collection agency of that fact via an intent-to-sue letter. Thus, collection agencies will only report the date that the account was opened with their facility - not the date of first delinquency. If your account has been illegally re-aged, this date will be incorrect. "Later, often around 180 days after the original due date of the payment, the creditor might sell the debt to a collections agency," says Michael Micheletti of Freedom Financial Network.

A collection agency must stop contacting you if you put your request to the company in writing. If the collection agency mails you a copy of the initial agreement that you signed with the original creditor, the debt has been fully validated and will stand up in court. Check your records to ensure that the quoted balance is correct and contact your original debtor to make sure you're working with the true collection agency. To speed things up, fax this same letter to the collection agency. If, however, you receive a mere printout, you can send a second dispute letter to the collection agency. Four private companies that can come after your tax debt in lieu of the IRS. The debt should be in someone else's name, or should be shared among more than one person. This is used to pay off the total of all other loans, and the debtor only need make the one monthly loan payment to pay off the debt. Because the collection agency cannot collect the debt from your parents, debt collectors will demand payment from the deceased's next of kin--you.

Some healthcare offices offer medical credit cards. Keep your healthcare bill out of collections so it never becomes medical debt. Note: If your bill is already in collections but your insurance company pays it, it is removed from your credit report immediately. The collector must wait 180 days from receiving the collection account before they can report the account to the credit bureaus. A collections account has a negative effect on your credit report. Has a credit or debt collector called you before 8 a.m. The collection agency may call you about the debt, but only between the hours of 8 a.m. They can't call you before 8 a.m. If you dispute all or part of a debt in writing within 30 days of when you receive the required information from the debt collector, the debt collector cannot call or contact you to collect the debt or the disputed part until the debt collector has provided the verification of the debt in writing to you. Keep track of every call, including collector name, company name, and the phone number on your caller ID. I asked him to tell me a little more about his company and he stated that they were a private company that only works with clients.