

YOUR RIGHTS AS A CONSUMER

OVERVIEW

Debt collectors are regulated by numerous state and federal laws in their debt collection activities. That's where our firm can help. Most people know that debt collectors cannot abuse them on the phone or in writing -- what many people don't know is that they have a lot of other legal rights too.

For example, a debt collector cannot call you at work if they know that it is inconvenient for you or that your employer prohibits it. Debt collectors cannot tell others about your debts, like your next door neighbor or your co-worker. Debt collectors also must be licensed in the State of New York if they are collecting the debts of others. These are just a few of the numerous protections you have as a consumer. If a debt collector violates your rights, our firm can help.

As a consumer, you are afforded a lot of consumer protections against debt collectors, both state and federal. Our firm primarily works with consumers whose rights have been violated under the FDCPA.

THE FEDERAL FAIR DEBT COLLECTIONS PRACTICES ACT "FDCPA"

As a consumer, you are entitled to file a lawsuit against any debt collector who violates your rights under the FDCPA. In short, the FDCPA allows a consumer to recover their actual damages, statutory damages of up to \$1,000 and their attorney's fees and costs. While this may seem like a modest amount, to debt collectors who violate the law there is much more at stake: Increased insurance rates, decreased collection rates, potential governmental regulatory action, and the spiraling costs of defending a lawsuit for their illegal conduct.

The deck is stacked against consumers with sophisticated debt collection tactics. As a consumer, you should not hesitate to shield yourself from these sharp practices and exercise your rights under the FDCPA. Our law firm has the experience, resources and ability to zealously represent you in your FDCPA action against any debt collector. We file federal civil lawsuits against debt collectors who violate any state or federal law. Thee FDCPA prohibits any collection efforts which violates any law. That means that amongst other things, a collector must tell the truth, be respectful to you, and cease communicating with you when you have a lawyer. Our firm can and will make illegal collection activity stop dead in its tracks.

We firmly believe that everyone should pay their just and owing debts. But our country was founded on historic legal principles which rejected debtor's prisons and

the like. Likewise, we think that no debt collector ought to violate your rights to get payment. It's that simple. Your legal right to fair, legal, debt collection activity cannot take a back seat to any debt collector's violations of state and federal law.

WHO IS COVERED: SOME DEFINITIONS

Consumer. Any person who owes or is alleged to owe a consumer debt.

Debt Collectors. According to the FDCPA, a debt collector is any person, other than the creditor, who regularly collects debts owed to others and includes attorneys who regularly collect debts.

Covered Debts. Any debt that is primarily for personal, family, or household purposes are covered under the FDCPA. Business and commercial debts are not covered. Alimony, child support, criminal fines and tort claims are generally not considered debts within the meaning of the FDCPA.

HOW A DEBT COLLECTOR CAN COMMUNICATE WITH YOU

Communications Generally. A debt collector may communicate with you by mail, in person, by telephone or telegram. A debt collector cannot contact you at times or in places that they know are inconvenient to you, such as at work if your employer does not permit it or during daytime sleep hours if you work nights. A debt collector cannot contact you before 8 a.m. or after 9 p.m.

Stopping Communications. If you send a written request to a debt collector demanding that they stop contacting you, the debt collector must stop contact immediately, but they may send one last communication to you advising you that they intend to take a specific action against you including filing a lawsuit.

Attorney Representation. If you are represented by an attorney concerning a consumer debt (e.g. a consumer rights attorney such as our office, a bankruptcy attorney, or a family attorney), the debt collector cannot communicate directly with you except through your lawyer.

Contacting Others. A debt collector cannot contact any third party about your debt. This means that they cannot call your sister-in-law, your grandson, or your neighbor about the debt. Debt collectors are not allowed to tell anyone but you and your attorney that you owe anyone else money.

Locating You. A debt collector has a right to contact other people once, and only once, in an effort to locate you. Debt collectors are not permitted to ask

neighbors to bring you phone messages, ask you to come across the street for a phone call, or tell other people that they are attempting to collect a debt from you.

DEBT VALIDATION

30 Day Validation Notice Requirements. Within five (5) days after you are first contacted, a debt collector must send you a written notice telling you the following:

- The amount of the debt.
- The name of the creditor to whom the debt is owed.
- A statement that unless you, within thirty (30) days after receipt of the notice, dispute the validity of the debt, or any portion of it, the debt will be assumed to be valid by the debt collector.
- A statement that if you notify the debt collector in writing within the thirty (30) day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against you and a copy of such verification or judgment will be mailed to the consumer by the debt collector.
- A statement that, upon the consumer's written request within the thirty (30) day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.
- Finally, a statement that the communication is from a debt collector attempting to collect a debt and that any information will be used for that purpose.
- Every debt collector who tries to collect your debt must provide their own thirty (30) day validation notice, even if a previous debt collector has already given such notice.

Rights While Debt Under Dispute. If you dispute a debt in writing within the thirty (30) day validation period, a debt collector cannot continue to collect on the debt until they have sent you proof of the debt or a copy of the judgment.

WHAT A DEBT COLLECTOR IS PROHIBITED FROM DOING TO YOU

Collection Fees Prohibited. A debt collector may not charge you an interest, fees, or collection charges, except those amounts that were authorized by the agreement with the creditor to whom the debt is owed.

Harassment Prohibited. A debt collector may not use any language, communication, or conduct to harass, oppress or abuse any person. This includes prohibits on:

- Use of threats or violence or harm to the person, property, or reputation.
- Advertise your debt or publish a list of consumers who refuse to pay their debts, except to the credit bureaus.
- Use of obscene or profane language.
- Repeated use of the telephone to annoy someone or cause the telephone to ring constantly.
- Call people without identifying themselves.

False Statements Prohibited. A debt collector may not use any false statements when trying to collect a debt. This includes:

- Falsely implying that they are an attorney or government representative.
- Falsely implying that you have committed a crime by not paying a debt.
- Falsely representing that they operate or work for a credit bureau.
- Misrepresenting the character, amount, or legal status of the debt.
- Indicating that papers being sent are legal papers when they are not.
- Indicating that papers being sent are not legal papers when they are.

Threats Prohibited. A debt collector may not use threats when trying to collect a debt. This includes threats like the following:

- You will be arrested if you do not pay your debt.
- They will seize, garnish, attach, or sell your property or wages, unless the collection agency or the creditor intends to do so and they have the right to do so.
- Take any actions against you which are illegal.
- Violate any law in an effort to collect a debt.

Deception Prohibited. A debt collector may not use deception when trying to collect a debt. This includes deceptions like the following:

- Send you anything that looks like an official document from a court or government agency when it is not.
- Give false credit information about you to anyone
- Use a fake or false name, unless that name is allowed by state law and properly registered with the state, if required.

Unfairness Prohibited. A debt collector may not treat you unfairly in attempting to collect a debt. This includes unfairness like the following:

- Collect any amount greater than your debt, unless allowed by law.

- Deposit a post-dated check more than five (5) days before the date on the check, without giving you notice of when they intend to deposit it.
- Solicit a post-dated check in order to threaten criminal prosecution or threaten to cash the check early.
- Make you accept collect calls or pay for telegrams.
- Take or threaten to take your property unless this can be done legally, including wrongfully repossessing your vehicle.
- Contact you by postcard.

Payments of Multiple Debts. A debt collector must apply your payments on multiple debts in the order you direct. A debt collector is prohibited from applying any payments you send in to debts that you believe you do not owe.

YOUR RIGHTS TO SUE

Your Right to Sue a Collector for Violations of the FDCPA. You have the right to sue a debt collector within one (1) year from the date you believe the law was violated. This is what our law firm does. If you do not bring your lawsuit within one (1) year of the violation, your claim will forever be barred by the statute of limitations. If you win your lawsuit, you may recover money for the damage you suffered, statutory damages of up to \$1,000 plus court cost and your attorney's fees.

WHAT TO DO IF YOU'RE ABUSED BY A COLLECTOR

If you are contacted by a debt collector, you have a right to dispute the debt either verbally or in writing. If you want to preserve some rights under the FDCPA, you must send a written dispute within thirty (30) days of your receipt of the first "validation notice" from the debt collector.

Even if you owe the debt, or you cannot pay, you still have rights under the FDCPA. Most of our clients owe the debt being collected but because of financial circumstances, or a dispute over the goods or services, they cannot pay it.

In order to preserve your rights under the law, it's important for you to keep good records of all of the contacts.

IMPORTANT STEPS YOU CAN TAKE

1. Save copies of all letters and notices from collection agencies.
2. Save all phone messages and voicemails - this is very important!
3. Make note of your conversations with these bill collectors.
4. Call your consumer rights attorney to help you recover your damages.

EXAMPLES OF POSSIBLE VIOLATIONS OF THE FDCPA

WHEN CONTACTING THIRD PARTIES/OTHER PEOPLE

- Debt collectors failing to identify themselves (only company name), or failing to state that collector is confirming or correcting locating information.
- Debt collectors disclosing to third parties that debts are owed.
- Contacting any person more than once, unless requested to do so by the third party.
- Contacting any person after knowing you are represented by an attorney.

PROHIBITED COMMUNICATION

- Calling you before 8:00 a.m. and after 9:00 p.m., your time.
- Contacting you after you are represented by an attorney.
- Calling your place of employment after the debt collector knows that your employer prohibits calls (after you say, “do not call me at work”).
- Contacting you, after you, in writing, tell the debt collector you are not going to pay debt, or you want collector to cease communication.

HARASSMENT OR ABUSE

- Debt collectors harass, oppress, or abuse any person.
- Threat of force or criminal means to harm you or your property.
- Use of profane language.
- Calling repeatedly.
- Calling you without disclosing identity (“I am a debt collector attempting to collect a debt”).

FALSE OR MISLEADING REPRESENTATIONS IN COMMUNICATION

- Attempting to collect more than is owed.
- Implying debt collector is an attorney when it is not.
- Threatening that the nonpayment will result in imprisonment, garnishment and attachment.
- Threatening to sue you when they are not an attorney.
- Threatening to take any action debt collector doesn’t intend to take or otherwise lying.