

How to Get Debt Collectors Off Your Back

Studies have shown that most people sincerely want to pay their debts. Loss of a job, unexpected medical bills, car repairs, or any number of factors can hinder doing so however. A client of mine had therapy that insurance was supposed to cover but did not. She had been unable to pay the bill herself, so she had no choice when the creditor sued her. Just before trial the insurance company came through – **four years later!** We negotiated a piddly amount for the interest and attorney's fees the creditor had been asking, and the lawsuit went away.

There is a saying that if you think nobody cares about you, try missing a car payment. As soon as you miss **any** payment, collectors will begin caring; you will start getting letters and phone calls. Usually if you are dealing with the original creditor, the calls will be reasonable. Explain your situation and when you expect you can catch up.

If you can't work something out, the creditor at some point will “charge off” the account. This merely means that the creditor treats it a certain way for accounting purposes, and stops its own collection efforts. Instead, it farms the account out to a debt collector. This can be a collection company or a collection law firm. You will usually get a letter first, and later the calls will start. The callers will range from those who are firm about your having to pay the bill to those who will insinuate that you are the scum of the earth. The average will slant toward the latter.

Your Protection

There is a federal law that grants you, the consumer, a host of rights to be free from harassment. That is the Fair Debt Collection Practices Act (FDCPA). It applies, however, only to debt collectors, not the original creditors. It prohibits a lot of what you will run into when debt collectors call.

Each state also has a state law equivalent. In California, for instance, it is the Rosenthal Act, which applies to original creditors as well as debt collectors.

The FDCPA is termed a “strict liability” law. That means that in the vast majority of instances, a court will just look to see whether a debt collector violated the law or not. Reasons don't count. If a debt collector sent you a letter without the correct language spelled out by the FDCPA, the best excuse

in the world for doing so doesn't help the debt collector. It either violated the law or it didn't. If it did, excuses are worthless. The fact that the debt collector didn't know that it was violating a section of the FDCPA doesn't matter. The fact that the debt collector didn't **mean** to violate the law is irrelevant. It is sort of like a light switch that is either on or off. If the switch is on, the debt collector is in trouble, no matter how good-intentioned it may have been.

Response to Debt Collector Letters

Within five days of first contacting you – by phone, mail, or filing a lawsuit – the debt collector must give you 30 days to dispute the debt. This doesn't always happen, however. So dispute it anyway. How do you know if their math is correct or if they have the right Lydia Snorkelmauser (if that is you). Send a letter and say "I dispute this debt." That will hardly slow them down; all they have to do is give you the name and address of the original creditor. But it will put them on notice that you won't be a pushover.

Debt Collector Calls

When a debt collector calls, don't bother trying to explain your circumstance; the debt collector hasn't the slightest bit of sympathy. The caller gets a commission for collection, not for compassion. So keep the conversation short. First get the name of the caller, his company, and his mailing address. Ask for an address to mail a small check. The caller will want to take a check over the phone. Tell him you never have done that, and never will. If he won't give you an address, you can most likely find it on the Internet.

Send a "Stop Contacting Me" Letter

Once you have the address send a certified letter and request a return receipt. This is to prove that they got the letter. Keep the letter short: "cannot pay this account at this time. Please do not contact me any more." Be sure that you make a reference to the account and the account number so that there is no question what account you are referring to.

They must stop all communication with you about that account. That is the law. But only if you send them a letter. Simply telling them on the phone not to call you doesn't do it. And if you ended up in court, it would be your word against the creditor.

If a different creditor of yours hires them to try to collect, you will have to write a separate letter for the second account.

In some cases the debt collector will actually stop bothering you. More often the debt collector will ignore the letter and keep harassing you. Start keeping notes. If you are inclined to fight back, you are beginning to build a case against the debt collector for violation of the FDCPA.

Recording Telephone Calls

If the caller leaves a message on your answering machine, save it. In the majority of states you can secretly record telephone conversations without telling the caller that you are doing so. Check with your local District Attorney or Attorney General to find out if this is possible in your state. debt collectors are prone to making an amazing range of threats from arrest and imprisonment to hints of physical violence.

Further, the frequency of the calls may be a violation in itself. And if you **tell** a caller not to call you at work because the company does not allow it, the collector is in violation if it calls again. A caller can call someone other than you, but only to determine your location. And the call to someone else can only be made once. debt collectors however will call parents, children, other relatives, and friends repeatedly. While they are not supposed to disclose why they are calling, they normally will. So also keep a log of calls to someone other than you.

If the Harassment Doesn't Stop

Look for an attorney with experience in FDCPA law. See for instance, How to Find a Good Lawyer. If you have a good case, expect that an attorney will take your case on a contingency-fee basis. In other words, you don't pay attorney's fees unless the attorney wins the suit or gets a settlement for you. Good luck!