

Collections Battle Plan

There are laws that protect consumers from unethical and illegal debt collection practices. If you ever have an account go into collections, it's crucial that you know your rights as a consumer. If you know how to deal with collectors, you can reduce stress, minimize the impact on your finances, and make the best of the situation.

Note that these laws specifically apply to debt collection agencies and non-business debt. If a consumer debt has been sold to a 3rd party debt collector, these laws protecting consumers apply.

Video Overview

<https://youtu.be/tXgzqoHWp5g>



Laws That Protect Consumers

These laws outline what collectors can, and more importantly, can NOT do when attempting to collect. Collectors may take advantage of people who don't know their rights.

- Fair Debt Collection Practices Act (FDCPA)
- Fair Credit Reporting Act (FCRA)

Important Things to Note About Collectors and Collections

- 💰 Collectors may not call you before 8am or after 9pm
- 💰 Collectors may not contact you at work if you've told them you're not allowed to receive calls there
- 💰 If you are represented by an attorney, collectors must generally communicate with you through the attorney
- 💰 Collectors cannot **harass** you, **lie**, or **engage in unfair practices**. From the FTC's website, this means **collectors may not:**
 - Threaten you with violence or harm
 - Use obscene or profane language
 - Repeatedly use the phone to annoy you
 - Misrepresent the amount you owe
 - Lie about being attorneys or government representatives
 - Falsely claim you'll be arrested, or claim legal action will be taken against you if it's not true
 - Try to collect interest, fees, or other charges on top of the amount you owe, unless the original contract or your state law allows it
 - Deposit a post-dated check early
 - Take or threaten to take your property unless it can be done legally
- 💰 Collectors must stop contacting you if you send them a letter requesting it (Note that collectors may still sue to collect the debt)
- 💰 There is a **statute of limitations** and a **credit reporting time limit** on debts
 - The statute of limitations limits the ability of collectors to win judgements on debts
 - The credit reporting time limit dictates how long negative information can stay on a credit report

If you feel that a collector has violated the FDCPA, you may report them to the State Attorney General's office, the Federal Trade Commission (FTC), and the Consumer Financial Protection Bureau (CFPB). A violation does not make the debt go away.

You have the right to sue a debt collector if you believe they have violated the law. If successful, you may be awarded up to \$1,000 plus legal fees. You may also sue for damages arising from the illegal debt collection practices, such as lost wages or medical bills.

Continues...

Debt Collection Process

When first contacted by collectors, there are specific actions you may take to protect yourself. You should verify that the debts are legitimate, and get the full details of the collection claim. You may find that you don't owe all or part of the debt.

When a collector contacts you to collect a debt, the process generally goes like this:

1. A collector contacts you claiming you owe a debt and its intent to collect
2. The collector sends a **validation notice** within 5 days explaining how much you owe, the name of the creditor you owe it to, and what to do if you don't think it's your debt
3. Within 30 days of receiving the validation notice, you may send a **verification letter** requesting written verification of the debt
4. The collector may not attempt to collect again until they provide you with verification of the debt
5. You may control contact by requesting that they don't contact you at work or at inconvenient times
6. You may retain an attorney to represent you, at which point the collector must generally communicate with them
7. You may also send a letter requesting that the collector stop contacting you (WARNING: this may leave them with no other option but to sue to attempt to collect the debt)
8. You may negotiate with collectors to settle debts (we strongly encourage you to get ALL such agreements in writing from the collector before sending payment)
9. If a collector is attempting to collect on multiple debts, you may specify which debts you would like any payments applied to

Advice for Dealing with Collectors

Even when they are behaving lawfully, collectors can be intimidating and pressure you to pay them right away. You must do what is best for your situation. When dealing with pressure from collectors, the following advice may be helpful:

1. Only pay on debts where the collector has provided a written agreement on the amount owed. A collector may lead you to believe something over the phone in order to get you to pay, but if it's not in writing then any verbal agreement may not be enforceable.
2. Collectors should be last on the list if you can't afford to pay for what you need. Pay for necessities (food, utilities), a roof over your head, and taxes before paying collectors.
3. Be careful what information you provide to collectors. Collectors may use that information against you.
4. Collectors may have purchased the debt from the original creditor for much less than initially borrowed. They may be willing to accept less than the full amount to settle the debt. (Collectors may initially insist that you pay the full amount, but their job is to get as much from you as possible.)

Continues...

5. If the statute of limitations has passed, collectors may be more willing to accept a settlement, as they won't be able to sue in order to force collection. Be careful not to reset the statute of limitations. We recommend that you consult with an attorney on these matters, as the laws are nuanced and it's important to proceed with caution.
6. Be careful with loans or other short term cash options to pay off debts in collections. Typically these options provide even worse terms than the original debts, and may require you to risk collateral.
7. Keep notes of each conversation with debt collectors. Get the name of each person you speak with and note the specifics of each conversation. This may be helpful in preparing a settlement offer the collection agency will agree to.