

Fact Sheet 27: Debt Collection Practices



Copyright © 2004-2006.
Privacy Rights Clearinghouse / UCAN
Posted February 2004.
Updated July 2006.

Search Our Site:
www.privacyrights.org/search/search.php
Have a Question?
www.privacyrights.org/preinquiry.htm
Web: www.privacyrights.org

HOME

Debt Collection Practices: When Hardball Tactics Go Too Far

Dealing with a debt collector can be one of life's most stressful experiences. Harassing calls, threats, and use of obscene language can drive you to the edge. What's worse, a collector may embarrass you by contacting your employer, family or neighbors. You may even be hounded to pay a debt that is not rightfully yours. Sure, collection agencies have a job to do. Even so, there are limits on how far a debt collector can go.

This guide explains the federal Fair Debt Collection Practices Act (FDCPA) and other laws that apply to debt collectors. We provide information about how to stop calls from collectors and how to correspond with them about your account or to dispute a collection action. We also explain your right to privacy, and how debt collection efforts may affect your job, your credit report, even information in your medical files.

1. [Tips for Dealing with a Debt Collector](#)
2. [Fair Play and the Fair Debt Collection Practices Act](#)
3. [Debt Collectors and Your Privacy](#)
4. [Debts and Collectors not Covered by the FDCPA](#)
5. [State Laws and Debt Collection Agencies](#)
6. [How to Write to a Debt Collector: Tips on Filing a Dispute](#)
7. [How to Complain about a Debt Collector: Tips on Suing](#)
8. [Debt Collectors and Identity Theft](#)
9. [Debt Collectors and Your Job](#)
10. [Debt Collectors and Medical Bills](#)
11. [References](#)
 - [Attachment A: State Laws and State Publications](#)
 - [Attachment B: Sample Letters](#)

1. Tips for Dealing with a Debt Collector

1. Know how the collection process works. Why are you being contacted by a collection agency? It usually means that a creditor has not received payment from you for several months. They have negotiated with another company or are using an in-house affiliate called a debt collector to attempt to get you to pay. Third party collectors often purchase your debt for less than you owe, and your debt is now owned by the collector. A collector may also work for the creditor in return for a fee or a percentage of any money collected. In-house collectors that are affiliated with the original creditor work on behalf of the company directly. Because the creditor has taken a loss on your account or because you are late with making payments, this negative information may show up on your credit report.

Another reason a debt collector may be contacting you is that an imposter has used your identity to obtain credit, a crime known as identity theft. You are not responsible for the debt, but you may experience difficulties convincing the debt collector of this. Under federal law, the debt collector has certain responsibilities in investigating your situation and may be liable for failure to cooperate. We discuss identity theft in [Part 8](#).

2. Know your rights. Learn to recognize abusive collection practices. Even if you owe a debt, a collector *owes you* fair treatment and respect for your privacy. Also, be aware that even if the collector's conduct does not exactly match the language of the federal Fair Debt Collection Practices Act, that collector may still be liable for its conduct. We explain your rights under federal and state laws in [Parts 2, 3](#) and [5](#).

3. Ask questions and learn specifics. Often the first contact with the debt collector is a telephone call from a representative, a pre-recorded message asking you to call a mysterious toll-free number, or a letter. When a collector calls or you call back, get as much information as possible. Ask for the name of the caller, the collection agency, the creditor, and the address and fax number for sending correspondence. Also ask about the amount the collector claims you owe. In this first call, you should also tell the caller you expect written follow-up if you have not yet received a notice in the mail. For information about how to correspond with a collector or complain to a government agency, see [Parts 6](#) and [7](#).

4. Assert your right to privacy . If your first contact with a collector is by telephone, tell the caller that you want all future contact in writing rather than by phone. You can also instruct the collector not to call you at work or at all if that is your choice. Make notes of your first conversation and start to keep a file. See Item 5 of this section. It is *important* to follow up on such requests in writing right away. Your letter should include requests about contact or other matters discussed in your first telephone contact. Note: If you notify the collector not to contact you at all, it is entitled to contact you one more time to explain how it intends to proceed.

Also you should tell and write the collector that you are the only person to be contacted. Since the agency is well aware of your location, there is no need to contact your employer, neighbors, relatives, or friends to find out where you are. If you are an employer, friend, neighbor, or family member who is being contacted by a collector, you can write the collector and tell it to stop contacting you. See [Parts 3](#) and [6](#) for more privacy protection tips.

5. Start and keep a file. At the first contact from a collection agency, start a file. Your file should include:

- Dates and times of phone conversations, pre-recorded messages the collector leaves on your voice mail, and when you send or receive correspondence.
- Notes of conversations along with the name of the collection agency employee.
- Copies of correspondence you send, as well as those you receive including envelopes. Collectors are supposed to give you written notice of the collection action five days after you are contacted by phone.
- Copies of messages that are abusive or overly intrusive.

There is no set time after which you will never be contacted again about a debt. Some debts are sold to other collectors even after being properly disputed. Keep all records regarding disputed debts indefinitely in case the debt comes back to haunt you, and you need to dispute it again.

6. Put it in writing. Send any correspondence, including disputes, to both the collection agency and the creditor by Certified Mail, Return Receipt Requested. When in doubt, send a written confirmation of anything that you may need to prove later (for example, a promise or threat made, a rude or harassing comment received, or an explanation given you that may show improprieties in the handling of your dispute or your payments). See [Parts 6](#) and [7](#) for tips on corresponding with collectors, government agencies, or collector associations about abusive practices. Also, see the

Sample Letters in [Attachment B](#).

7. Clarify payments. If you negotiate a repayment plan over the phone, ask the representative to send you the terms of the plan in writing. You may also write a letter that explains your understanding of the negotiated repayment plan. Payments made to a debt collector when multiple debts are involved should clearly specify to which debt the payment is to be applied. It is possible to dispute one debt, but agree to pay another. Also, any promise to remove or adjust reports in your credit history should be documented for later enforcement.

8. Pay the proper party. Payments should be made to the debt collector and not the original creditor unless you are expressly instructed to pay the creditor directly. In this case, you should confirm such instruction in writing to both the creditor and the debt collector.

9. Don't be coerced. Never pay a bill you don't owe just to get the collector to "go away." Any payment of the debt is considered an acknowledgement that you are responsible. Even if you pay, that will not erase a negative entry on your credit report. See [Parts 6](#) and [7](#) for information on how to notify collectors in writing about a variety of situations in which they might be attempting to coerce payment.

10. Examine balances, interest charges, and other fees and charges. Carefully review the amount you are being asked to pay. You should ask the collector to tell you the amount of the original debt as well as give you a breakdown of any interest, fees, or charges that have been added. Federal law prevents a debt collector from charging you any more than the amount you actually owe, if not permitted by the laws of your state or the terms of the original agreement with the creditor. (15 USC § 1692(f))

11. Complain about abusive collection practices. Under the federal FDCPA, a collector is not allowed to make idle threats, express or implied (for example, "We must get your payment no later than the day after tomorrow"), or use abusive or profane language. A collector should not discuss your account with third parties or use the phone to harass you. Your state may also have a law that sets standards for debt collectors (see [Part 5](#)). For tips on how to complain to authorities about abusive practices, go to [Part 7](#).

12. Military members should make an appointment with the local Judge Advocate General's office if contacted by a collector. The Soldiers and Sailors Civil Relief Act (SSCRA) provides protections for military members whose financial life is affected by military service. Visit the Department of Army's web site for information on how the SSCRA applies to military members, www-tradoc.army.mil/opja/la/sscra.htm.

13. Don't be fooled. Be wary of advertisements that promise an easy solution to debt. Debt repair "doctors" and credit consolidators may end up causing you more harm than good. Also, federal and some state statutes have "credit repair organization" acts that may limit the amount that you can be charged and when you can be required to pay such charges, even if the person you consulted is an attorney. These laws were enacted because of the number of people who preyed on the public's ignorance by charging them to do what the person was fully empowered to do themselves. Violation of these acts may even constitute criminal activity, and be the basis for the suspension or revocation of the individual's license. The FTC and the IRS have been investigating scam debt consolidation offers, www.ftc.gov/opa/2003/10/ftcirs.htm. Read the FTC's publication, "Ads Promising Debt Relief May Be Offering Bankruptcy," www.ftc.gov/bcp/conline/pubs/alerts/bankrupt.htm.

14. Seek help, but be careful. Seek assistance in resolving your debt(s) through a member agency of the National Foundation for Consumer Credit, such as the Consumer Credit Counseling Service. This national organization can help you locate an affiliated counselor in your area (see References, [Part 11](#)). Do not agree to any payment plan until you have confirmed the credentials of the counseling service. Some charge excessive fees. Before you decide to work with a counselor, check with the Better Business Bureau, www.bbb.org.

15. Seek legal help. Some situations may call for the assistance of a consumer lawyer. You may sue in federal court within one year of violation of the law. Look for an attorney with expertise in the FDCPA and relevant federal and state laws, and with a proven track record.

16. Don't ignore a collector even if the debt is not yours. It is in your best interest to respond to a collector immediately. Delay can mean the collector will continue to contact you. The collector may even file a lawsuit to get a judgment against you. The result can cost you more time and trouble in the long run.

2. Fair Play under the FDCPA

The federal Fair Debt Collection Practices Act (FDCPA) sets the national standard for collection agencies. FDCPA, enforced by the Federal Trade Commission (FTC), prohibits abusive collection tactics that harass and invade your privacy. (15 USC §§1692-1695) The full text of the FDCPA is found at www.ftc.gov/os/statutes/fdcpa/fdcpart.htm.

Generally, the FDCPA only applies to agencies that collect debts for others. However, other federal or state laws may apply to in-house debt collections. For more on debt collections not covered by the federal law, as well as collection laws in California and other states, see Parts 4 and 5 and [Attachment A](#) of this guide.

Can a debt collector contact me by phone?

Yes, but within limits. A debt collector **cannot**:

Call you before 8 a.m. and after 9 p.m. unless you agree. Call you repeatedly or use the phone to harass you. Trick you into accepting collect calls or paying for telegrams. Use obscene language, make negative comments about your character, or make religious or ethnic slurs.

Call you at work if the collector knows your boss does not allow such calls.

If you have an attorney, the collector should call that person, not you.

Fair play under the FDCPA also means a debt collector owes you the truth about who it is and what it intends to do. False statements and deceptive practices like the following are **not allowed**. A collector **cannot**:

- Claim to be an attorney or government employee when it is not.
- Send you documents that look like legal papers when they are not.
- State that forms sent to you are *not* legal documents when they are.
- Say that you committed a crime.

A debt collector threatened to sue me. Can it do that?

A collection agency can file a lawsuit to collect a debt. However, among the many things a collector is not allowed to do is threaten you with a lawsuit just to get you to pay the debt. Examples of threats and deceptive practices **prohibited** by the FDCPA are when the collector:

- Says it will garnish your wages or sell your property if it is not legal to do that.
- Says it will sue you, if the collector doesn't intend to sue.
- Is not truthful about the amount of money you owe.
- Says you will be arrested if you don't pay the debt.
- Threatens you with violence.

Does a creditor have to tell me before it sends my account to a collection agency? What about credit bureaus?

You have no right to be notified under the FDCPA that an account will be referred to a collection agency. However, your state may have a law that requires notice in some cases. In California, for example, you are notified before a health or fitness club refers a debt to a collection agency. If you are threatened with such a referral with no sign of your creditor carrying through on the threat, the creditor may have violated the law.

The Fair and Accurate Credit Transactions Act (FACTA or FACT Act) requires financial institutions to send notice that negative information may be posted to your credit report. Sample notices are available from the Federal Reserve Board, www.federalreserve.gov/boarddocs/caletters/2004/0412/CA04-12Attach4.pdf.

For summaries of the new FACT Act, see PRC Fact Sheet 6(a), *FACTA: The Fair and Accurate Credit Transactions Act: Consumers Win Some, Lose Some*, www.privacyrights.org/fs/fs6a-facta.htm. Also, visit consumer web sites:

- National Consumer Law Center, www.consumerlaw.org/initiatives/facta/nclc_analysis.shtml
- Consumers Union, www.consumersunion.org/pub/core_financial_services/000745.html

Does an agency have to contact me in writing before it calls me?

No. A collection agency may contact you first by telephone. Within five days after the phone call, the collector must send you a written notice. The notice must tell you how much you owe and the name of the creditor who says you owe the money. The written notice must also tell you how to file a dispute if you don't agree that you owe the money. For more on disputing a debt that is not yours, see [Part 6](#).

Does a debt collector have to tell me anything else?

The person who calls you from a collection agency has to give you his or her name and the name of the agency. The caller cannot pretend to be someone else. A collection agency cannot lie about who it is or send documents that mislead you.

I'm receiving phone calls from a collector. Can I stop the collection agency from contacting me by phone?

You can write a letter to the agency telling it not to contact you by phone, not to call at certain times or locations, or not to make any further contact at all. This last request does not entitle the collector to contact you one more time to inform you of what, if any, action it intends to take to collect the debt, but not to threaten you. (See [Part 6](#)) The collector should send such a letter by certified mail and request a return receipt. If the company has a fax number, send the letter by both fax and by mail. Understand, telling the collection agency not to contact you should stop phone calls, but it won't stop the collection efforts.

For more on collection tactics that are prohibited by the FDCPA, see the FTC publications:

- "Fair Debt Collection," www.ftc.gov/bcp/online/pubs/credit/fdc.htm
- FTC Staff Commentary, www.ftc.gov/os/statutes/fdcpa/commentary.htm#805

3. Debt Collectors and Your Privacy

Public embarrassment and the prospect that your personal information might be shared with others are real concerns when dealing with a collection agency. The FDCPA includes provisions intended to safeguard privacy.

The FDCPA says discussions about the debt can only be held with (1) the individual, (2) the creditor, (3) an attorney representing one of the parties, and (4) a credit bureau. Public airing of your business intended to shame you into paying a debt is not allowed. Debt collectors:

- Cannot exchange (with other agencies) information about individuals who allegedly owe a debt.
- Cannot distribute a list of alleged debtors to its creditor subscribers.
- Cannot advertise a debt for sale.
- Cannot compile a list of debtors for sale to others.
- Cannot leave messages with third parties, asking them to have the debtor call the collector.

May a collector send me mail in care of another person?

Only if you live at the same address or receive your mail at that address. Even when communicating with directly by mail, a collector is not permitted to use a postcard. The outside of an envelope sent to you by collector should not include language to indicate that the mail is from a debt collector or that the letter relates to the collection of a debt. In short, the collector should take reasonable measure to assure your privacy. For example, if the collector knows that you share your address with others, it may be required to mark the letter "personal" or "private" and not give any outward appearance of the nature of the letter.

May a debt collector contact my neighbors or family members about my debt?

Not if the collector knows your name and telephone number and could have contacted you directly. When contacting your family members including minors or neighbors to find out how to locate you, the collector

- Cannot tell others you owe a debt or discuss details of the account.
- Must identify himself, (by name, but not as a debt collector).
- Must identify the name of the collection agency only if asked.
- Can only contact the party once unless the collection agency has reason to believe the person has new information.
- Cannot leave information about a debt on a third party's answering machine or voice mail service.

Contacts with a spouse, the parent of a minor, a guardian, co-signer, executor, or administrator are considered the same as contacts with the debtor under the FDCPA.

I am being contacted by a collector looking for my former roommate, neighbor, or relative. Can I stop this?

The FDCPA says a debt collector may contact someone other than the debtor, but only to learn the location of the debtor. Usually this contact can be made only once, unless the collector has reason to believe the person has new information. If you are a relative or roommate, a debt collector who contacts you repeatedly violates *your* privacy. Excessive contact may be considered a form of harassment. You should be able to stop contacting the debt collector. For an example of what to say if you are the alleged debtor and want to cease contact with you or if the debt is someone else's and a collector is contacting you about it, see sample letters 4 or 6 [Attachment B](#), www.privacyrights.org/Letters/letters.htm#Debt.

If the collector persists in contacting you, discloses details about the other person's debt, or if the collector's actions have been abusive or threatening, you should complain to the appropriate government agency and seek legal advice. The important thing to remember is that you have the same rights as the debtor, including the right to bring an action for any of the violations described here. For further discussion, see [Part 7](#).

If I co-sign a loan, can a debt collector contact me?

Yes, if the person who asked you to co-sign does not pay. When you co-sign a loan, you are guaranteeing the lender will be repaid - either by the person who asked you to co-sign or by you.

As the co-signer, you have the same legal protections as the primary signer. You may also have additional

claims against the creditor and possibly the collector if you were not given the special disclosures required under state and federal law advising co-signers of the risks involved. For more on the implications of co-signing for another person's debt, see the FTC publication "Cosigning a Loan," www.ftc.gov/bcp/conline/pubs/credit/cosign.htm.

Does a debt collector have access to my credit report?

Yes. The FCRA lists a number of "permissible purposes" for accessing your credit report. One purpose is for "...review or collection of an account..." (FCRA Sec 604(3)(A)) If you are dealing with a debt collector, we recommend you check your credit report. You can now order free reports from each of the three national credit bureaus once every 12 months. For more on free credit reports, visit the FTC's web site: www.ftc.gov/bcp/conline/edcams/freereports/index.html

Often, a single collection action will result in multiple negative entries on your credit report. For example, a delinquent account may be reported under the name of the original creditor and again under the section of the credit report for "collections." If the matter resulted in a court judgment, it may again appear on your credit report under the public records section.

If you find the same account is reported in multiple areas of your credit report, we recommend you dispute this with the credit bureaus and file a complaint with the Federal Trade Commission. Dual reporting of a single account can unfairly lower your credit score.

4. Debts and Collections Not Covered by the FDCPA

Does the FDCPA cover all collection actions?

No. Here are examples of debt collection activities that **are not** subject to the FDCPA:

- **A creditor that collects its own overdue accounts** is *not* subject to the FDCPA. The law defines "debt collector" as one in the business, the principal purpose of which is the collection of debts due *another*. But in-house collections *are* covered by the FDCPA if they create the impression that they are either an independent collector or a governmental agency. State collection laws such as California's may apply to both outside and in-house collection activities. Where they do, the collector so defined is subject to federal law. For more on state debt collection laws see [Part 5](#) and [Attachment A](#).
- **A property manager** is probably not covered because this person usually works for the property owner. But, an attorney who collects unpaid rent for a property owner is covered if the attorney regularly collects for others. (FTC Opinion Letter to Goodacre, 11-6-95 www.ftc.gov/os/statutes/fdcpa/letters/goodacre.htm)
- **Government employees** whose job is to collect debts as an official duty are not covered by the FDCPA. Student loans and debts collected by the Internal Revenue Service (IRS) are a good example of debts collected by government employees.

However, when the government refers collection of debts to an outside agency, the FDCPA applies. The U.S. Department of Education sometimes refers collection of student loans to an outside collector. For more on student loans and collections, see the Department of Education's web site, www.ed.gov/offices/OSFAP/DCS/collection.agencies.html.

Even if the government uses its own employees to collect a debt, the agency may adopt internal procedures that follow the FDCPA. The IRS, for example, follows the principles of the FDCPA for in-house collections. As the IRS moves toward using private debt collectors, the agency has established standards for collectors that go beyond the requirements of the FDCPA. For more on IRS' requirements for outside collectors, see www.irs.gov/newsroom/article/0,,id=155065,00.html

The type of debt, such as a student loan, may affect whether all of the rights you would otherwise

enjoy may be afforded you in this particular situation.

- **Process server**, that is someone attempting to serve a copy of a court order enforcing payment of a debt, *is not* covered by the FDCPA, provided its efforts are limited to the service of process.
- **Consumer credit counseling services** are *not* subject to the FDCPA if the service is:
 - A nonprofit organization, and
 - Receives payments from the debtor for distribution to creditors.

Despite the many collection activities that fall outside the FDCPA, the FTC recently reported to Congress that abusive debt collection practices not subject to that law may still be subject to an FTC enforcement action under the Federal Trade Commission Act. Similarly, such activities may be subject to the provisions of other acts prohibiting unfair business practices. The FTC is required to submit an annual report to Congress about debt collection complaints. The most recent report can be read at: www.ftc.gov/opa/2006/04/fyi0621.htm.

Are attorneys subject to the FDCPA?

An attorney that regularly collects or attempts to collect consumer debts owed another, directly or indirectly, must comply with the FDCPA. The law also applies to attorneys who act as in-house counsel and who send dunning letters or make telephone calls on behalf of their employer/client. For more information about debt collection efforts that are and are not covered by the FDCPA, see the Federal Trade Commission's Commentary on the FDCPA. www.ftc.gov/os/statutes/fdcpa/commentary.htm

The status of attorneys as debt collectors may vary under state collection laws. To find out what the laws are in your state when an attorney acts as debt collector, contact your state Attorney General through the web site of the National Association of Attorneys General (NAAG), www.naag.org and see [Part 5](#) below.

What is the Debt Collection Improvements Act?

The Debt Collection Improvements Act (31 USC § 3711) applies to debts owed to the federal government. Collection efforts are under the control of the Financial Management Service, a part of the U.S. Department of Treasury. For more on this law and how it applies, see the Department of Treasury web site at www.fms.treas.gov/news/factsheets/index.html.

5. State Laws and Debt Collection Agencies

Over half of the states have laws that govern the activities of debt collectors. Some laws provide additional protections not found in the federal law. Attachment A to this guide lists such state laws and provides links to publications about them, www.privacyrights.org/fs/fs27plus.htm.

California's Fair Debt Collection Practices Act (California Civil Code § 1788, et seq.) adds to the federal law in several ways. Unlike the federal law, the California law applies to third-party collectors *as well as creditors that collect debts for themselves*.

California law also gives you added protections against unwarranted contact with your employer. In California a debt collector **may only** contact your employer to:

- Verify your employment status.
- Verify your business address.
- Garnish your wages when a court issues a judgement against you.
-

Find out about insurance coverage if the debt involves a medical bill.

Under California law, the debt collector must first attempt to contact your employer in writing for any one of the allowed purposes (except for verification of employment, in which case a single oral contact is permitted). The collector may only telephone or make a personal contact with your employer regarding the issues listed above if after 15 days there has been no response to the written inquiry.

For more on debt collection in California, see the California Attorney General's publication, "Collection Agencies," www.ag.ca.gov/consumers/general/collection_agencies10.htm.

Does a collection agency need a license?

There is no federal license or registration required for collection agencies. However, in some states debt collectors must register or apply for a state license. Licensing requirements vary from state to state. Many states also require collection agencies to be bonded. In some states, such as California, there may have been prior requirements for licensing of collectors, resulting in state regulations being retained on the books of the state even after the regulatory agency has been disbanded. These regulations may provide additional details and support for legal arguments of what is considered proper. To learn more about the licensing and bonding requirements for collection agencies operating in your state, link to your state's collection law through Attachment A, www.privacyrights.org/fs/fs27plus.htm. If your state is not listed, contact your state's attorney general through the National Association of Attorneys General web site, www.naag.org.

You may also contact your state's consumer protection office through the federal government's Consumer Action web site, www.consumeraction.gov/state.shtml.

6. Corresponding with a Debt Collector: Tips on Filing Disputes

In [Part I](#), we suggest you start a file at your first contact with a collector. Letters you write as well as ones sent to you are an important part of your file. Letters, along with your notes of telephone conversations and personal contact, create a "record." Your file will be invaluable if you ever find it necessary to complain to a government agency or file a lawsuit. (See [Part 7](#))

There are many reasons to write to a collector. There are also certain things to look for when a debt collector writes to you. Here are just some things that might lead you to write a letter to a collector:

- It is not your debt. The collector has you confused with someone else.
- You are a victim of identity theft - someone used your identity to run up charges.
- You already paid the debt.
- The creditor sent the bill to an old address, even though you told the creditor you moved.
- The collection agency says you owe more than you think or says you owe an exorbitant amount in fees and extra charges.
- You need to clarify your conversation with a collection agent.
- You would like to stop phone calls to you or others.

You may also want to create a written record of your dealings with the collector. A record could prove particularly useful later on, especially if you are dealing with a problem collector or one that refuses to put its agreements with you in writing.

Some things you would record in a letter to a debt collector:

- Promises.
- Terms of payment.
- Commitments to adjust entries in credit history.
- Proper crediting of payments.
- Instances where the collector failed to keep a promise to you or failed to act within the agreed upon time.
- Instances where the collector or its representative engaged in abusive practices such as threats, abusive language, or contact with third parties.

How do I dispute a collection action?

Your first contact with a collection agency is likely to be a telephone call. The law requires a collection agency to send you a written notice five days after it first contacts you. The FDCPA requires a collection agency to tell you how to contact the collector in writing.

The written notice must also tell you how to dispute the debt and give you the information you need to locate the collector. The FDCPA (§1692g(a)) says the written notice should also tell you:

- The amount of the debt.
- The name of the creditor.
- A statement that if you notify the debt collector in writing within the 30-day period that you are disputing the debt, the collector will obtain verification of the debt or a copy of a judgment against you.
- A statement that, if you request it, the collector will provide you with the name and address of the original creditor, if different from the current creditor.
- A warning informing you that, "This is an attempt to collect a debt and any information obtained will be used for that purpose."

If you do not receive the notice within five days, call the collection agency and ask for its address and fax number. Then, send a letter to the collector noting its failure to send you the required notice. As a minimum, make a note for your file.

What information should I include in a letter?

We have developed several debt collection letters that you can tailor to fit your specific situation in [Attach www.privacyrights.org/Letters/letters.htm#Debt](http://www.privacyrights.org/Letters/letters.htm#Debt). We include suggested wording for disputing a debt as well as giving the collector notice to stop contact with you, people you know, or your employer. The sample letters are not intended to confer legal advice and are only offered to provide guidelines. In [Part 7](#) we offer guidance on how to write a complaint letter to a government agency. The same suggestions apply when writing to a collection agency. It is particularly important to get organized, get to the point, and maintain a business-like tone.

It is a good idea to include a date in your letter by which you expect to hear back from a collector, for instance that either it is investigating your dispute or will no longer contact you about another person's debt. A usual date of two to three weeks is sufficient.

It is also very important to send correspondence to a debt collector by Certified Mail, Return Receipt Requested. This way, you will receive a signed and dated notice that the collector has received your letter. Without this confirmation, it may come down to your word against the collector. You may also want to fax your letter to the collector and mail it.

What happens after I dispute a collection?

After you file a dispute, the collection agency then must stop collection efforts until it has conducted an investigation. This means the debt collector cannot put the debt on your credit report. It must validate the debt by obtaining a verification of the debt or a copy of a judgment from the creditor. A copy of documents that verify the debt is also required.

bill should then be mailed to you. When you send the collector proof that the debt is not yours or has been satisfied, ask for written confirmation that the collector is not holding you accountable for the debt. Some accounts, even though properly disputed with one collector, may be sold to another. This can happen even if you have successfully disputed an account.

This makes it all the more important to create a record of your experience with the prior collector. Keep it indefinitely, especially if it contains correspondence that states you are not responsible. State law may keep a collector from suing you after a given period of time. However, there is no statute of limitations on collection efforts. What you thought was a closed file, may later come back to haunt you.

How long does the collection agency have to conduct its investigation?

There is no set time, but, again, the collection agency cannot resume collection action unless it confirms the debt.

May a debt collector report negative information on my credit report?

Yes. However, collection agencies are not consistent when it comes to reporting. Some collectors report larger collection amounts while others report all collections. For a discussion about inconsistent reporting and other issues that arise when collectors report to credit bureaus, see the Federal Reserve Board Study, *Credit Report Accuracy and Access to Credit*, www.federalreserve.gov/pubs/bulletin/2004/summer04_credit.pdf

If you dispute a debt with a creditor or a collector, any notation on your credit report should also state that you dispute the debt.

Am I liable for the debt if I don't dispute it in 30 days?

If the matter ends up in court, failure to file a dispute cannot be held against you. The FDCPA (§1692g(c)) requires a failure to file a dispute does not allow a court to assume you admit liability for the debt. However, being able to establish that you did comply with all statutory requirements may greatly enhance your chances of success. Your goal is to establish the facts and convince the judge or others who decide the matter that you are credible and deserve to have the law applied with its full effect on your behalf.

7. How to Complain about a Debt Collector: Tips on Suing

What can I do if a debt collector violates the law?

If you have exhausted all strategies in dealing with the debt collector as described in this guide and the collector continues to use illegal, unfair and abusive practices, you may file a complaint, sue the collector, or both. This section explains how to file a complaint below, and provides tips for suing a collector at the end of this section.

- **Federal Trade Commission.** (www.ftc.gov) The FTC is the government agency that enforces the FDCPA. It may bring an action in federal district court against a debt collector that violates the law. Understandably, the agency does not have the resources to bring a court action on behalf of an individual or against every collector about which it receives a complaint. But the agency can and does take action against the most egregious offenders.

The FTC's primary source of information about abusive collection practices is through consumer complaints. The FTC offers an online complaint form on its web site, www.ftc.gov. The address for mailing complaints is provided in the References, [Part 11](#).

To learn more about the types of debt collector complaints the FTC receives and actions it has brought against collectors, see the agency's most recent report to Congress on the FDCPA, www.ftc.gov/opa/2006/04/fyi0621.htm.

- **State Attorney General or State Office of Consumer Protection.** State officials may enforce FDCPA as well as state collection laws. Before submitting a complaint to your state officials: if your state has its own collection law (see [Part 5](#) and [Attachment A](#)). When writing your complaint be sure to describe a collection agency's actions that violate the FDCPA as well as those that violate the law in your state. Keep detailed notes, correspondence, and recordings of any documents that may indicate the collector has violated state or federal laws.
- **Debt Collector Associations.** The American Collectors Association is a national organization of member collection agencies. To become a member, a collection agency must agree to follow FDCPA and a set of industry standards. A complaint against a member debt collector may be filed through the organization's web site, www.acainternational.org/intcontent.aspx (click on "Complaints" or by writing the Association at the address in [Part 11](#) at the end of this guide.

Debt collectors may also be members of a statewide association. In California, that's the California Association of Debt Collectors. This state organization's web site has a list of member collectors (see [Part 11](#)). To find out whether a collector has been organized in your state, consult the white pages of your telephone directory or try an Internet search.

What should I include in a complaint to a government agency?

Here are some general tips about writing a complaint letter:

- **Get organized** before you begin to write your complaint. This is where your file will come in handy. Keep good notes of dates, representative's names, and details of any conversations: correspondence or personal contact. Keep originals of all correspondence you send and receive.
- **Create a chronology or timeline** from your file. Always start with the date of the first contact by the debt collector. Your chronology does not have to be elaborate. It can be as simple as putting all your notes, letters and other documents in date order. Attach *copies*, not originals, of any documents, like a paid receipt, that support your version of events and strengthen your arguments. Keep your originals in your file.
- **Select only *major* points or important details to include in your complaint.** Not every contact by a debt collector amounts to an abusive practice. For instance, it is not necessary to include every telephone call made from a debt collector in your complaint letter -- *unless* the telephone calls are made at odd hours, are harassing, or are calls made to your employer after the collector has been informed that you are not permitted to accept such calls.
- **Summarize minor points.** Frequent contacts that did not include abusive practices, may simply be noted in a summary statement. For example, "Between January 1 and February 1 the collection agency contacted me fifteen times." If you are unsure about what should be included in your complaint, review the prohibited practices under the FDCPA explained in [Part 2](#) and [Part 3](#) in this guide and in publications in the References section in [Part 11](#).
- **Start your letter by giving the first date you were contacted** by the collection agency. This is a critical date. It can go a long way in supporting your complaint or lawsuit if the problem cannot be resolved otherwise. The original date of contact can establish, for example, that you have been attempting to resolve the problem directly with the collector for a long time. This date can also show that the collection agency did not, as required by law, follow up a telephone contact with a written notice within the five days required by law.
- **The tone** of your letter should be business-like and to the point. To hold the attention of the agency official or others who read your complaint, you should briefly state who, what, and when. Be concise. Simply explain the actions by the collector you feel were abusive and violations of the law.

May I sue a collection agency?

Yes. The FDCPA allows individuals and class action plaintiffs to sue in federal or state court within a year of the violation. Under the FDCPA, if you win, you may recover actual damages plus up to \$1,000. Attorney fees and court costs may also be recovered. Members of a class action may recover actual damages plus a total of \$500,000 or one percent of the net worth of the debt collector. Attachment A to this guide, www.privacyrights.org/fs/fs27plus.htm, may have information about collection laws in your state.

There are many private practice attorneys who specialize in assisting consumers who have experienced violations of state and federal debt collection laws. The web site of the National Association of Consumer Advocates, www.naca.net, provides a directory of member attorneys. The search process enables you to find attorneys near you and to specify those with debt collection experience, www.naca.net/db.php3.

May I tape record calls from the collector?

If the collector is verbally abusive when phoning you or engages in other practices in apparent violation of the law, you might want to gather evidence by taping the calls. Such evidence can be invaluable if you file a complaint with the authorities and if you sue the collector. *Be aware* that in a dozen states including California, you need to obtain consent before taping the call, with some exceptions. Check the web site of the Reporters Committee for Freedom of the Press for a 50-state compilation of laws regarding tape recording, www.rcfp.org/taping.

8. Debt Collectors and Identity Theft

What if I am a victim of identity theft?

A call from a collection agency or being denied an extension of credit is often the first clue that something is wrong. When a collection agency contacts you about a bill you know nothing about, you may be the victim of identity theft. The crime of identity theft is an epidemic that is sweeping the country. Recent surveys show that this crime affects as many as 10 million victims a year. For a summary of recent identity theft surveys and studies, see www.privacyrights.org/ar/idtheftsveys.htm.

If you think someone else opened an account in your name or made charges to your existing account without your permission, you should follow the steps in our Fact Sheet 17a, "Identity Theft: What to Do if It Happens to You," www.privacyrights.org/fs/fs17a.htm. Be sure to write the collection agency and explain that you are an identity theft victim. See our sample letters in [Attachment B](http://www.privacyrights.org/Letters/letters.htm#Debt) at www.privacyrights.org/Letters/letters.htm#Debt, specifically sample letter 3.

In addition, the Identity Theft Resource Center has posted a fact sheet for identity theft victims dealing with collection agencies, www.idtheftcenter.org/vg116.shtml.

The FTC also provides resources for identity theft victims, including advice for victims of identity theft who are contacted by collection agencies, at www.consumer.gov/idtheft/con_resolv.htm#debt.

We suggest that you ask the collector for copies of documentation such as transaction receipts and statements that are associated with the fraudulent account. You should also ask the collector and the creditor to send you their fraud affidavit form, or use the one provided by the FTC at www.ftc.gov/bcp/conline/pubs/credit/affidavit.pdf. You can fill out this affidavit and use it for several accounts if more than one has been opened in your name by the imposter.

Recent amendments to the FCRA give identity theft victims new rights when debts have been referred to a collection agency. The new law, titled the Fair and Accurate Credit Transactions Act (FACTA), took effect in late 2004. Now, if a debt collector learns that you may be the victim of identity theft, the collector must:

- Notify the original creditor about the fraud or identity theft.
- Give you information about the debt, such as account applications and statements.

Recent changes in the law have also increased the burden on businesses to protect your information and provide for recovery from both the business and from various victim funds where warranted.

9. Debt Collectors and Your Job

The loss of a job is just one result of abusive debt collection practices that Congress noted when it passed the FDCPA. However, the federal law does not go very far in protecting you against intimidation and embarrassment when a collector calls your place of employment and speaks to your boss or co-workers.

Can a collection agency contact my boss?

A debt collector may contact anyone other than you, but *only* to find out where you live or your telephone number. This includes your employer, who is treated like any other third-party contact under the FDCPA. Unfortunately, the FDCPA creates no specific restrictions on contacts with an employer. Although not required to do so, a collection agency *should* contact your boss only as a last resort.

The laws of your state may have stricter rules about contact with your employer. In California, for example, a collection agency must first try to contact your employer in writing before making a call. If your employer does not respond within 15 days, the collection agency may then call.

Can a collection agency send legal documents to my employer?

Papers that are connected with your job may be sent to your employer. A judgment or court order that garnishes your salary is an example.

Can a collection agency call me at work?

The FDCPA says a collector cannot call you at work if your employer does not allow you to receive such calls or if you have asked (preferably in writing) that they not call you there. If you are first called at home, make sure to tell the collection agency that it cannot call you at work if that is your wish. Follow up with a written request.

Keep detailed notes about each violation of this request, making sure that both you and any witnesses to the contact will be able to testify at a much later time if you decide to take legal action against the collector. One ideal way is to have witnesses write a statement specifying the date, time, and details of the contact. Each of you should retain a copy. See sample letter 4 in [Attachment B](#) to this guide, www.privacyrights.org/Letters/letters.htm#Debt.

Does my employer have other ways of finding out about a collection?

Collection action may appear on your credit report with the three credit report agencies: Experian, TransUnion, and Equifax. If you apply for a new job or are considered for a promotion or transfer in your current job, the federal Fair Credit Reporting Act (FCRA) allows employers to obtain your credit report as part of an employment background check. In this way, your employer may find out about any accounts you have in collections and may make decisions based on that information.

For more on employment background checks and credit reports, see:

-

PRC Fact Sheet 16 "Employment Background Checks: A Jobseeker's Guide"

www.privacyrights.org/fs/fs16-bck.htm.

- Fact Sheet 16a, "Employment Background Checks in California"
www.privacyrights.org/fs/fs16a-califbck.htm.
- FTC publication, "Using Consumer Reports: What Employers Need to Know,"
www.ftc.gov/bcp/online/pubs/buspubs/credempl.htm.
- FTC publication, "Negative Credit Can Squeeze a Job Search,"
www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt053.htm

10. Debt Collectors and Medical Bills

Collection of medical debt is a major consumer issue. A recent study by the Federal Reserve Board found nearly half of all collection actions appearing on consumer credit reports are for collection of unpaid medical bills. For more information, see www.federalreserve.gov/pubs/bulletin/2003/0203lead.pdf

May a doctor or hospital refer an overdue medical bill to a collection agency?

Yes. HIPAA, the medical privacy rule that became effective in April 2003, allows a health care provider to disclose information to a collection agency. HIPAA also says an overdue bill can be reported to a credit reporting agency.

Collection of an unpaid bill is considered a payment activity under HIPAA. Thus, it is not necessary that you give your consent before a medical bill is referred to a collection agency or before a negative entry is placed on your credit report.

However, you may dispute a medical bill with the health care provider or a collection agency. If you do, the fact that you have lodged a dispute should also be revealed if a negative report is made to your credit report.

Can my medical information be disclosed to a collector or a credit reporting agency?

HIPAA says the healthcare provider or health plan may disclose *only* the following information about you to a collection agency or credit bureau.

- Name and address.
- Date of birth.
- Social Security number.
- Payment history.
- Account number.
- Name and address of the one claiming the debt.

Of course, the name of the healthcare provider may contain clues to the medical condition of you or members of your family. Recent amendments to the federal FCRA enacted by Congress in 2003, the Fair and Accurate Credit Transactions Act, change the way medical collections appear in credit reports. The names of health care providers must be masked if they would disclose the type of medical condition for which you sought care. For more about medical information and new FACTA rules, see PRC Fact Sheet 6(a), www.privacyrights.org/facta.htm#7

Do I have a right to dispute a medical collection?

You can always dispute a medical bill with your healthcare provider or health plan. You can also dispute inaccurate information included in your credit report. For more on disputing inaccurate information in your credit report, see the FTC publication, *How to Dispute Credit Report Errors*, www.ftc.gov/bcp/edu/pubs/consumer/credit/cre21.htm

However, we know of no national law that provides standards in disputing medical bills. The federal Fair Credit Reporting Act

Billing Act (FCBA) only applies to open-ended credit accounts such as credit card accounts and revolving accounts like department store charge accounts. (15 USC §1601)

For more on when the FCBA applies, see the FTC's publication "Fair Credit Billing," www.ftc.gov/bcp/online/pubs/credit/fcb.htm, as well as the text of the law, www.ftc.gov/os/statutes/fcb/fc

There is a dispute procedure you can use if the debt is referred to an outside collection agency. When this happens, a medical bill, like any other debt, is subject to the FDCPA dispute procedures. For more on filing a dispute under the FDCPA, see [Part 7](#).

To learn more on disclosures to collection agencies and credit bureaus by HIPAA "covered entities," see Fact Sheet 8a, "HIPAA Basics: Medical Privacy in the Electronic Age," www.privacyrights.org/fs/fs8a-hipaa.htm#7.

A debt collector called me after an identity thief got medical treatment under my name. What should I do?

Medical identity theft is a largely unreported type of identity theft. This type of identity theft occurs when an imposter uses your identifying information to obtain medical treatment or medical supplies. If you become a victim of this crime, you may find yourself dealing with a medical debt collector as well as erroneous negative data included on your credit report. Medical identity theft may also involve false claims made to a victim's insurance plan.

A recent report published by the World Privacy Forum examines the unique character of medical identity theft as well as potential harms to victims. See the World Privacy Forum's report, FAQ for victims, and tips for consumers. www.worldprivacyforum.org/medicalidentitytheft.html

11. References

Federal and State Laws

Federal Laws

- Fair Debt Collection Practices Act, 15 USC §1692-1692o
www.ftc.gov/os/statutes/fdcpa/fdcpact.htm
- Fair Credit Reporting Act, 15 USC §1681 et seq.
www.ftc.gov/os/statutes/fcradoc.pdf
- Fair Credit Billing Act, 15 USC §1601 et seq.
www.ftc.gov/os/statutes/fcb/fcb.pdf
- Federal Trade Commission Act, 15 USC §41-58
www4.law.cornell.edu/uscode/15/41.html
- Fair and Accurate Credit Transactions Act (FACT) of 2003
Public Law No. 108-159 (December 4, 2003)
www.ftc.gov/os/statutes/fcrajump.htm

California Law

- Fair Debt Collection Practices Act, California Civil Code §1788, et seq.
www.leginfo.ca.gov

Laws in Other States

- See [Attachment A](#), www.privacyrights.org/fs/fs27plus.htm

Government Agency Contacts

- **Federal Trade Commission**
 Consumer Response Center
 600 Pennsylvania Ave. N.W.
 Washington, D.C. 20580
 Telephone: (877) FTC-HELP (877-382-4357)
 TDD: (202) 326-2502
 Web: www.ftc.gov - Click "File a Complaint" on home page.
- **Soldiers and Sailors Civil Relief Act (SSCRA)**
www-tradoc.army.mil/opja/la/sscra.htm
- **California Attorney General**
 Public Inquiry Unit
 P.O. Box 944255
 Sacramento, CA 94244-2550
 Telephone: (800) 952-5225 and (916) 322-3360
 Web: <http://ag.ca.gov/consumers/index.htm>
 Read: "Collection Agencies," www.ag.ca.gov/consumers/general/collection_agencies10.htm
- **State Attorneys General Offices**
 National Association of Attorneys General,
www.naag.org
- **Consumer Protection Offices in the States**
 Federal Government's Consumer Action Web site
www.consumeraction.gov/state.shtml

Other Resources

- **Attorney Referral Services**

National Association of Consumer Advocates (NACA)
 Its web site, www.naca.net, offers a national directory of member attorneys. The search process enables you to specify lawyers with debt collection experience,
www.naca.net/db.php3

My Fair Debt, www.myfairdebt.com
- **National Consumer Law Center**
 The NCLC publishes the book, *NCLC Guide to Surviving Debt: A Guide for Consumers*,
www.nclc.org (no endorsement implied).
- **American Collectors Association**
 P.O. Box 39106
 Minneapolis, MN 55439-0106
 Telephone: (612) 926-6547
 Fax: (612) 926-1624
 Email: aca@collector.com
 Web: www.collector.com
 Complaints about members:
www.acainternational.org/intcontent.aspx, Click on "Contact ACA."

- **California Association of Collectors**
P.O. Box 254490
Sacramento, CA 95865-4490
Telephone: (916) 929-2125
For information and to complain about members: (800) 316-2262
Web: www.calcollectors.net
- **National Foundation for Consumer Credit, Inc.**
8611 Second Avenue, Suite 100
Silver Spring, MD 20910
Telephone: (800) 388-2227
Web: www.nfcc.org
- **Better Business Bureau**
www.bbb.org

Federal Trade Commission Publications and Links

- "Credit and Your Consumer Rights, "
www.ftc.gov/bcp/online/pubs/credit/crdright.htm
- "Fair Debt Collection,"
www.ftc.gov/bcp/online/pubs/credit/fdc.htm
- Fair Debt Collection Practices Act Home Page,
www.ftc.gov/os/statutes/fdcpajump.htm
- "Ads Promising Debt Relief May be Offering Bankruptcy,"
www.ftc.gov/bcp/online/pubs/alerts/bankrupt.htm
- FTC Staff Commentary on the FDCPA,
www.ftc.gov/os/statutes/fdcpa/commentary.htm#805
- "Using Consumer Reports: What Employers Need to Know,"
www.ftc.gov/bcp/online/pubs/buspubs/credempl.htm.
- "Cosigning a Loan,"
www.ftc.gov/bcp/online/pubs/credit/cosign.htm.
- Identity Theft Home Page,
www.consumer.gov/idtheft
- FTC's Identity Theft Fraud Affidavit,
www.ftc.gov/bcp/online/pubs/credit/affidavit.pdf
- "Resolving Specific Problems"
www.consumer.gov/idtheft/con_resolv.htm

Fact Sheets of the Privacy Rights Clearinghouse and Identity Theft Resource Center

- ITRC Fact Sheet 116, "Collection Agencies and Identity Theft"
www.idtheftcenter.org
- PRC Fact Sheet 6, "How Private Is My Credit Report,"
www.privacyrights.org/fs/fs6-crdt.htm
- PRC Fact Sheet 17a, "Identity Theft, What to Do When It Happens to You,"
www.privacyrights.org/fs/fs17a.htm.
- PRC Fact Sheet 16 "Employment Background Checks: A Jobseeker's Guide"
www.privacyrights.org/fs/fs16-bck.htm
- PRC Fact Sheet 16a, "Employment Background Checks in California"
www.privacyrights.org/fs/fs16a-califbck.htm

Attachments to This Guide

- Attachment A: State laws and state publications are available at:
www.privacyrights.org/fs/fs27plus.htm.

- Attachment B: Sample Letters are available on line at:
www.privacyrights.org/Letters/letters.htm#Debt
Sample Letter #1 - Dispute the Debt
Sample Letter #2 - Stop Contact by Collection Agency
Sample Letter #3 - Identity Theft Victim --Stop Contact By Collection Agency
Sample Letter #4 - Stop Contact With Employer and Others
Sample Letter #5 - Complain about a Collection Agency
Sample Letter #6 - Stop Contact about Someone Else's Debt

The Privacy Rights Clearinghouse developed this guide with funding from the Rose Foundation Consumer Privacy Rights Fund. We acknowledge the assistance of Lou Bruno, Esq., consumer law attorney, Escondido, CA, in reviewing this publication

HOME TOP

Copyright © 2004-2006. Privacy Rights Clearinghouse/UCAN. For distribution of this fact sheet, see our [copyright and reprint guidelines](#). This copyrighted document may be copied and distributed for nonprofit, educational purposes only. The text of this document may not be altered without express authorization of the Privacy Rights Clearinghouse. This fact sheet should be used as an information source and not as legal advice. PRC fact sheets contain information about federal laws as well as some California-specific information. Laws in other states may vary. Overall, our fact sheets are applicable to consumers nationwide.

Privacy Rights Clearinghouse, 3100 - 5th Ave., Suite B, San Diego, CA 92103. Web: www.privacyrights.org