

Strategies for Responding to Debt Collectors

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Introduction

Complaints regarding debt collectors and collection practices are frequently among the top complaints of older consumers struggling with medical, credit card, or other forms of household debt.. This Chapter Summary will provide different strategies advocates can use to help older consumers respond to debt collectors, including dealing with debt collection harassment.

What Collectors Can Legally Do to Collect on a Debt

Most debts, such as almost all credit card obligations, medical bills, and cell phone charges are “unsecured.” This means that consumers do not have to put up any collateral, such as a home or car to secure repayment. An unsecured creditor collecting a debt that is not owed to the government (for example, tax debts or federal student loans) can only legally do the following four things if the debt is not paid:

1. **Stop doing business with the consumer.** A credit card issuer can cancel a card, or a dentist might refuse to let the consumer continue as a patient.
2. **Report the delinquent debt to a credit bureau.** If a consumer is behind on their bills, it will likely end up on their credit record. While this is unfortunate, it still may not make sense to prioritize a particular bill first just because it may be reported to a credit bureau. Many creditors routinely report the status of all of their accounts each month to a credit bureau. When the account is turned over to a collection agency, this also may be indicated on the credit report. If that is true, the damage to the credit score has already happened. Paying the debt collector now will not do much to improve the credit rating and failing to pay will not likely do much more damage to the credit rating. Whether or not the creditor reports to credit bureaus, a debt collector seeking to report an account must first attempt to contact the consumer about the alleged debt before it does so. Where the account has not been reported by the creditor already, this notice from the debt collector may provide an opportunity to negotiate about an account before any credit reporting occurs.
3. **Contact the consumer to ask them to pay.** Creditors will attempt to contact consumers to arrange for payments on overdue accounts. The account may then be placed with debt collectors who may also attempt to reach the consumer. Traditionally, most of these communications have been in writing or by phone, but collectors can also use email, text, direct messages via social media platforms, or other types of communication. Sample letters are available that are effective in stopping a debt collector from contacting a consumer, to avoid debt harassment, or instruct the debt collector to stop attempting to contact them using certain types of communications (e.g., telling the debt collector to stop calling them). In addition, federal law prohibits third-party debt collectors from telling friends, relatives, employers, or other third parties about the debt they claim a consumer owes.
4. **File a lawsuit to collect the debt.** It is hard to predict whether a particular creditor will actually sue on a past-due debt. How aggressively a collection agency seeks to collect the debt is not an indication of whether the creditor will sue. If the creditor does sue the consumer, the consumer has a right to respond and raise defenses. Doing so may stop the creditor from pursuing the case. However, failing to respond to a lawsuit or failing to show up in court when required may result in a win by default for the creditor. If the creditor does pursue a lawsuit to its conclusion (or if the consumer did not respond to

the lawsuit and the creditor won by default) and the judge rules that the consumer owes the debt, the unsecured debt becomes a court judgment. A court judgment is a higher priority debt than the previous unsecured debt. After a judgment, the creditor may be able to use powerful collection tools such as wage garnishment or bank account garnishment (depending on state law).

Nine Ways to Stop Debt Collection Harassment

1. Investigate the Collector

Consumers may receive calls, emails, or other electronic messages from scammers pretending to be debt collectors. Advocates should advise consumers to not make any payments unless they are sure that the collector is legitimate.

If a suspicious party has reached out to the consumer by phone, they should ask for the caller's name, company, phone number, and business address. Simply asking these questions may discourage a phony debt collector from contacting them again. If a suspicious party contacts the consumer electronically, advocates can warn consumers against clicking on any links or opening any attachments to electronic messages from senders that are unknown to avoid phishing attacks or potential computer viruses.

Advocates and consumers can also check to see if their state licenses debt collectors and if the company that is contacting them is licensed. If a state does not license debt collectors, check the registry for a neighboring state. Some states also provide licensing information to the Nationwide Multistate Licensing System at nmlsconsumeraccess.org. That website will thus provide a few more states where the debt collector might be licensed.

2. The “Stop Contact” or “Cease” Letter

One strategy to stop collection harassment is to write the collector a “stop contact” letter, also called a “cease” letter. Then the collector can only acknowledge the letter and notify the consumer about legal steps the collector may take. This protection usually only applies to collection agencies hired by the creditor or debt buyers that purchased debts from the creditor, but even creditors collecting their own debts may honor such requests. Important: Ceasing collection communications will not change whether the consumer owes the debt. At the end of this document is a sample letter, also [found ready for editing here](#).

Consumers should keep a copy of the letter and send the original by mail, return receipt requested. Cease letters may also be sent electronically using any type of electronic communication that the debt collector uses to accept consumer communications. If the collection agency accepts emails from consumers, cease letters can be sent via email.

If a debt collector continues to contact the consumer, send another letter or electronic message and once again keep a copy. The letter should tell the debt collector that they are violating federal law by continuing to contact the consumer. Careful records of any communications received after sending the letter will be helpful if litigation is needed to sue the debt collector for violating the consumer's federal rights.

Consumers do not need a lawyer to send a cease letter. However, if a cease letter does not stop collection calls, a letter from a lawyer usually will. Collection agencies must stop contacting a consumer known to be represented by a lawyer, if the lawyer responds to the collection agency's inquiries. Even though this requirement does not apply to creditors collecting their own debts, these creditors usually honor such requests from a lawyer. A collector's lawyer is bound by legal ethics not to contact the consumer if they are represented by a lawyer.

3. Stopping Only Certain Types of Collection Contacts

Instead of stopping all types of collection communication, a consumer may only want to stop some types of contacts and allow others. Debt collectors must comply with consumer requests to stop using a particular type of communication—for example, a request to stop calling or stop emailing. The collector must also comply with requests concerning communications to a particular phone number, email address, or other electronic account. Unlike a cease communication letter, this does not stop all types of communications.

Consumers can stop communications from collection agencies at inconvenient times or places by telling a live operator that the contacts are inconvenient. For example, they could say:

- *I am not allowed to receive this type of call at work [or calls at work are inconvenient]. Please stop calling me at work.*
- *Please don't call me before noon. Morning calls are not convenient.*

Or, consumers may tell a collector exactly when and how they would like to be contacted. For example:

- *Please only contact me at [phone number] after [time]. Calls at other times and numbers are not convenient.*

Electronic communications from debt collectors must include instructions for how consumers can stop receiving that type of electronic communications. For example, an email from a debt collector must include instructions about how consumers can stop future emails to that email address.

These requests do not have to be in writing. A consumer can simply tell a live operator to stop contacting them in a certain way:

- *Please stop calling me or please stop emailing me.*
- *Stop calling me at 212-555-1212 or please stop emailing me at consumer@test.com.*

The last line of the “Stop Contact” Letter (found at the end of this document) can be changed to tell the collector how the consumer would like to be contacted. For example:

- *Please stop all communications by email and text message. You can call me after 5:00 p.m. at 212-555-1212.*

4. The “Exempt Income” Letter

If a consumer’s only sources of income are state or federal government benefits, their income may be “exempt” or protected from collection. If the collector is informed that government benefits are the consumer’s only source of income, the collector may voluntarily stop contacting them about the alleged debt.

Collectors can be informed over the phone that all of the consumer’s income is exempt and you can also send a letter. A sample of the letter can be found at the end of this document and also [accessed online](#).

The consumer may want to ask in the letter or a separate letter that the debt collector stop contacting them—see the “Stop Contact” or “Cease” Letter at the end of this document for a sample. They may also want to specify certain types of contacts that they do not want to receive, as discussed in #3 above. Keep a copy of any letters that are sent and it is best to send the letter by mail, return receipt requested.

5. The “Dispute” Letter

If the consumer believes the debt is not theirs, that the amount is incorrect, or that there is some other error, the consumer or their attorney should send the collector a dispute letter. Collectors make a lot of mistakes and disputing the debt may help resolve the matter.

Federal law requires debt collectors to provide “validation information” about the alleged debt and consumers’ rights to dispute the debt. Collectors will be able to provide this information orally, electronically, or via a written letter. While collectors are unlikely to provide the lengthy notice orally, they may choose to deliver these notices electronically. If a debt collector claims to have sent a notice previously but the consumer never received it, ask for another copy.

Keep a copy of any letters that are sent. It is best to send the letter by mail, return receipt requested. Dispute letters can also be sent electronically using any type of electronic communication that the debt collector uses to accept consumer communications. If the collection agency accepts emails from consumers, the dispute letter can be sent via email.

A dispute letter may be combined with a request for more information. See the sample verification letter found at the end of the document.

6. The “Verification” Letter

Often it is not even clear what debt a collector is contacting the consumer about, and in that case, the consumer should not pay the collector until more information is obtained. As discussed in item #5, above, federal law requires debt collectors to provide “validation information” about the alleged debt. However, the consumer may still have more questions about the alleged debt.

You can find this sample letter at the end of this Chapter Summary. It outlines some of the different types of additional information a consumer or their attorney might request about the debt—they typically do not need to ask for all this information.

Keep a copy of any letters that are sent and it is best to send the letter by mail, return receipt requested. This letter may be combined with a dispute letter. It is best to send the letter within thirty days of receipt of the validation information.

7. Negotiating Work-Out Agreements

Too often consumers respond to debt harassment by agreeing to make payments to the collector. A consumer should not pay even a little on a credit card, medical, or other unsecured debt if doing so means that they become delinquent on high priority expenses like rent, payments for a car that is needed to get to work, or essential family expenses like food or medicine.

Attorneys and advocates should warn consumers about making a partial payment on old debts. They cannot be sued on a debt that is a certain number of years old (depending on the state). In some states, if the consumer makes even a small payment on an old bill or acknowledges the debt, courts may treat this as starting the time period over again, and the consumer can then be sued on the debt.

Consumers should also beware of debt settlement companies that promise to negotiate with the creditor on their behalf. These companies typically take large fees and often produce far less than promised.

Consumers and their advocates should drive a hard bargain on any payment plan agreed to—ask the debt collector to reduce the debt. Consumers should also be careful not to agree to pay more than they can afford. Any deal or agreement should be set forth in writing. Some collectors may be willing to negotiate to remove items from the consumer’s credit report once they have paid as agreed.

Attorneys and advocates can use [NCLC’s Surviving Debt Chapter 22](#) (subscription required) to determine if a consumer is collection-proof. Being collection-proof means that if the creditor sues the consumer, that creditor will not be able to seize their income or property because they are all exempt under state law. If a consumer is collection-proof, offer the creditor little or nothing and just say that it is not worth pursuing them since they are collection-proof. See the sample letters for the “Stop Contact” or “Cease” Letter and the “Exempt Income” Letter at the end of this document.

8. Complaining to the Consumer Financial Protection Bureau

Consumers can send a complaint about a debt collector to the Consumer Financial Protection Bureau at consumerfinance.gov/complaint. The agency will forward the complaint to the debt collector and work to get a response, usually within fifteen days. Complaints may also be sent to the consumer protection division of the state attorney general's office. Some states offer mediation services for consumer disputes.

9. Bankruptcy

Filing the initial papers for personal bankruptcy instantly triggers the “automatic stay” that stops all collection activity against a consumer. As a rule, a bankruptcy filing does not make sense where a consumer's only concern is debt harassment since they can stop the harassment with a cease contact letter (see item #2, above). The bankruptcy option should be considered for serious financial problems.

Illegal Debt Collection Conduct

The major law dealing with illegal debt collection conduct is the federal Fair Debt Collection Practices Act (known as the FDCPA). The FDCPA only applies to debt collectors (including collection attorneys), but state law may have similar requirements for the creditors' own collection efforts.

The FDCPA and its regulations require collection agencies to take certain actions, including:

- The collection agency must tell consumers that it is a debt collector.
- Debt collectors must take certain steps to try to contact consumers about an account before reporting it to a collection bureau.
- The collection agency must stop communicating with consumers if they make a written cease communication request or stop making certain types of communications in response to your written or oral request.
- The collection agency, in its initial communication or within five days, must provide consumers with important information about the debt. If the consumer raises a dispute in writing within thirty days of receiving that notice, the collector must suspend collection efforts on the disputed portion of the debt until the collector responds to the request.

The FDCPA also prohibits harassing collection conduct, including:

- Communicating about a debt without the consumer's permission with their relatives, employers, friends, neighbors, or others. Collectors may contact attorneys, credit bureaus, cosigners, and a consumer's spouse. They can contact others only to locate you and cannot reveal that a debt is involved.
- Using any communication, language, or symbols on envelopes or postcards that indicate that the sender is in the debt collection business.
- Posting on social media about the alleged debt in a way that can be viewed by the public or the consumer's social media contacts.
- Communicating with the consumer at unusual or inconvenient times or places. The times 8:00 a.m. to 9:00 p.m. (in the time zone where the individual lives) are generally considered convenient, but daytime contacts with a consumer known to work a night shift may be inconvenient.
- Contacting the consumer at work if the collector should know that their employer prohibits personal calls.
- Contacting the consumer if they are represented by a lawyer.

- Using obscene words, racial slurs, insulting remarks, or threats of violence.
- Telephoning more than seven times in a seven-day period about a single account or speaking to the consumer more than once in a seven-day period about that account.
- Falsely representing the character, amount, or legal status of a debt.
- Falsely stating or implying a lawyer's involvement.
- Stating that nonpayment will result in arrest, garnishment, or seizure of property, unless lawful and the collector intends to take such action.
- Collecting fees or charges the collector is not entitled to collect.
- Depositing post-dated checks before their date.
- False impressions that collector is a government affiliate or agent.

Suing a Debt Collector

Consumers can sue debt collectors that violate their rights. If a consumer wins a lawsuit under the FDCPA, they can recover money for any injuries they suffer, plus up to \$1,000 in additional damages, plus their attorney fees.

Attorneys should gather information about how the collector's misconduct affected the consumer and their family. It may be difficult for individuals to discuss their feelings about the harassment, and advocates should deploy [trauma-informed strategies](#) when gathering case details. All symptoms of emotional distress should be discussed, including anxiety, embarrassment, headaches, nausea, indignation, irritability, loss of sleep, and interference with family or work relationships. Attorneys should also gather information about out-of-pocket losses, from loss of employment to loss of wages because of time taken off from work to try to resolve the dispute. In addition, telephone charges, transportation, medical bills, and counseling services could all be part of the actual damages. Consumers should keep a record of all expenses related to the collection effort.

Additionally, consumers should make a log of all collection contacts with as many details as possible for each contact: time, date, company, caller, and what was said. They should also keep electronic communications like emails and text message, and if possible, keep voicemail messages.

Resources

- NCLC: [Surviving Debt](#) (subscription required)
- NCLC: [Fair Debt Collection](#) (subscription required)
- Consumer Financial Protection Bureau: [Debt Collection](#)
- Aging Safely: [Consumer Law Forms](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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The “Stop Contact” or “Cease” Letter

[Your name]

[Your return address]

[Date]

[Debt collector name]

[Debt collector address]

Re: [Account number for the debt, if you have it]

Dear [Debt collector name],

I am responding to your contact about an alleged debt you are attempting to collect. You contacted me by [phone/mail/email], on [date]. You identified the alleged debt as [any information they gave you about the debt].

Please stop all communication with me and with this address about this alleged debt.

Thank you for your cooperation.

Sincerely,

[Your name]

The “Exempt Income” Letter

[Your name]

[Your return address]

[Date]

[Debt collector name]

[Debt collector address]

Re: [Account number for the debt, if you have it]

Dear [Debt collector name],

I am responding to your contact about an alleged debt you are attempting to collect. You contacted me by [phone/mail/email], on [date]. You identified the alleged debt as [any information they gave you about the debt].

I am living on _____/month which comes from [name of government benefit(s)]. I believe that all of my income is exempt from collection and creditors may not garnish these payments.

Sincerely,

[Your name]

The “Dispute” Letter

[Your name]

[Your return address]

[Date]

[Debt collector name]

[Debt collector address]

Re: [Account number for the debt, if you have it]

Dear [Debt collector name],

I am responding to your contact about collecting an alleged debt. You contacted me by [phone/mail/email], on [date] and identified the alleged debt as [any information they gave you about the debt]. [Explain what you are disputing. For example, “I am not responsible for the debt you’re trying to collect.” Or “The amount that you are seeking to collect is incorrect.”]

Please record this dispute. If you stop your collection of this debt, and forward or return it to another company, please indicate to them that it is disputed. If you report it to a credit bureau (or have already done so), also report that the debt is disputed.

Thank you for your cooperation.

Sincerely,

[Your name]

The “Verification” Letter

NOTE: This letter outlines some of the different types of additional information a consumer or their attorney might request about the debt—they typically do not need to ask for all this information.

[Your name]

[Your return address]

[Date]

[Debt collector name]

[Debt collector address]

Re: [Account number for the debt, if you have it]

Dear [Debt collector name]:

I am responding to your contact about an alleged debt you are trying to collect. You contacted me by [phone/mail/email], on [date] and identified the alleged debt as [any information they gave you about the debt].

Please supply the information below so that I can be fully informed about the alleged debt:

Why you think I owe the debt and to whom I owe it, including:

- The name and address of the creditor to whom the alleged debt is currently owed.
- The name and address of the original creditor and any other names used.
- A copy of the original contract or other agreement.
- The name of any other person that is or was required to pay the alleged debt.

The amount and age of the debt, including:

- Provide a copy of the last billing statement sent to me by the original creditor.
- State the amount of the alleged debt when you obtained it.
- State the date when you obtained the alleged debt.
- Provide an itemized list of any alleged interest, fees, or charges since the last billing statement from the original creditor.
- Provide a copy of any agreement expressly authorizing such interest, fees, or additional charges.
- Provide an itemization showing any payments since the last billing statement from the original creditor.
- State when the creditor claims this debt became due and when it became delinquent.
- Identify the date of the last payment made on this account.
- State when you think the statute of limitations expires for this debt, and how you determined that.

Details about your authority to collect this debt, including:

- Provide the number of any license to collect debt in [insert name of the state where you live] and the name of the issuing agency.
- Provide the number of any license to collect debt in the state where you are located and the name of the issuing agency.

Please treat this debt as disputed until you provide the information requested.

Thank you for your cooperation.

Sincerely,

[Your name]