

If the dispute involves a line of credit, a credit card, or an electronic transfer of money, you have the additional legal right to require the creditor to investigate the bill.

6. **Complain to a Government Agency.**

You should consider writing to government agencies responsible for enforcing laws that prohibit debt collection abuse, like the Federal Trade Commission or state attorney general's office.

Your letter of complaint should be sent to the Consumer Response Center at Federal Trade Commission, CRC-240, Washington, D.C. 20580. You can also call the Commission toll-free at 1-877-FTC-HELP (382-4357) or file a complaint on-line at www.ftc.gov. Copies of the letter should also be sent to the consumer protection division within your state attorney general's office, usually in the state capitol, and also to any local office of consumer protection listed in the local telephone book or on the Internet. Addresses can be obtained from a local better business bureau or office of consumer affairs.

7. **Bankruptcy.**

In most cases, filing your initial papers for personal bankruptcy triggers the "automatic stay." This is a very powerful tool because it stops all collection activity against you, from collectors, creditors, or even government officials. But, as a general rule, a bankruptcy filing is not your best strategy where your only concern is debt harassment. It is a good idea to consult a bankruptcy attorney if you are considering filing for bankruptcy.

8. **Sue the Debt Collector for Illegal Conduct.**

Debt collection harassment is against the law. Among other rules, collection agencies must not:

- Communicate with your employer, relatives or friends about your debt unless the court has given the collector permission to do so. There are a few narrow exceptions to this rule. For example, they can talk to your spouse.
- Contact you at work if the collector should know that your employer prohibits personal calls, or contact you at other inconvenient times or places.
- Falsely represent the character, amount or legal status of a debt.
- Threaten to take actions that are illegal or not intended.
- Use obscene or profane language.

WHERE CAN I GO FOR HELP?

Consult your local legal services office (www.lsc.gov), volunteer lawyers project (often coordinated through the local bar association) or local department of consumer affairs. For a list of bankruptcy attorneys, visit www.nacba.org. For a list of attorneys that handle consumer cases, visit www.naca.net.

You can also find out more about this topic in NCLC publications, including the NCLC Guide to Surviving Debt (445 pages)(\$20). To order this handbook, visit www.consumerlaw.org or www.survivingdebt.org or contact NCLC Publications at (617) 542-9595.

NCLC is a resource for lawyers and advocates on consumer issues affecting low and moderate income individuals. NCLC publishes Fair Debt Collection (5th ed.) with an annual supplement for advocates. This brochure was supported by a grant, number 90-AP-2647, from the Administration on Aging, Department of Health and Human Services, Washington, D.C. Points of view or opinions are entirely those of the National Consumer Law Center.



ATTORNEY
ANN MOSTOLLER
865.482.4466
www.msw-law.com

Dealing with DEBT COLLECTION Harassment

NATIONAL
CONSUMER LAW
CENTER

▲
77 SUMMER ST., 10TH FL.
BOSTON, MA 02110
617/542-8010
WWW.CONSUMERLAW.ORG

Dealing with Debt Collection Harassment

DEBT COLLECTION HARASSMENT IS AGAINST THE LAW.

Federal law and many states prohibit harassment by collection agencies and collection attorneys. The federal law applies only to third party collectors, but many state laws also cover creditors collecting their own debts.

If you are being harassed by debt collectors, you should consider the following eight steps. In most cases, you will want to consider more than one.

1. Try to Stop Harassment Before it Starts.

It is to your advantage to try to deal with the problem before the creditor refers the debt to a collection agency. You should consider calling up the creditor to explain your situation.

2. Send a “Cease Letter.”

The simplest strategy to stop collection harassment is to write the collector a cease letter. Your rights may be different depending on whether you are dealing with your creditor or with a collection agency.

Federal law requires collection agencies to stop their collection efforts after they receive a written request to stop. The federal law does not apply to creditors collecting their own debts, but even these creditors will often comply.

It is very important to keep a copy of the written request and to send it by certified mail (return receipt requested). This will give you proof that the collector received your letter.

Here is an example of such a letter:

Sam Consumer
10 Cherry Lane
Flint, MI 10886

January 1, 2006

NBC Collection Agency
1 Main Street
Flint, MI 10887

Dear Sir or Madam:

I am writing to request that you stop contacting me about an account number _____ with [name of creditor] as required by the Fair Debt Collection Practices Act 15 U.S.C. section 1692c(c). (Note: Delete reference to the Act where the letter is to a creditor instead of to a collection agency. Some, but not all, state laws prohibit further contact by creditors).

[Describe any harassing contact by the collection agency. If appropriate, provide information about why you cannot pay the bill or do not owe the money].

This letter is not meant in any way to be an acknowledgment that I owe this money. I will take care of this matter when I can. Your cooperation will be appreciated.

Very truly yours,

Sam Consumer

You should keep a careful record of any letters and phone calls you receive after sending the letter. This record may help you if you later decide to sue the debt collector for breaking the law.

3. The Lawyer's Letter.

You do not need a lawyer to send a cease letter. However, if your cease letter does not stop collection calls, a letter from a lawyer usually will. In addition, the lawyer may be able to raise legal claims on your behalf for debt collection harassment.

Collection agencies must stop contacting a consumer known to be represented by a lawyer, as long as the lawyer responds to the collection agency.

4. Negotiate with the creditor or collector.

It is often easier to negotiate with a creditor before your debt is sent to a collection agency, but you can negotiate with collection agencies as well.

Regardless of the type of deal you try to negotiate, be careful about offering too much. Even a small payment to an unsecured creditor is unwise if this prevents payment of your mortgage or rent. If you do make payments, it is much safer to pay by check or money order rather than giving out your bank or credit card account numbers.

5. Raise Complaints About Billing Errors and Other Defenses.

When a collection letter contains a mistake, you can write to request a correction. Collection agencies must inform you of your right to dispute the debt. They must do this the first time they communicate with you or within five days after first communicating with you about the debt. If you then dispute the debt in writing within the next thirty days, the collection agency must stop collection efforts while it investigates.