



Creditors Can't Do That!

———— *Your Guide to* ————

Stopping Creditor Harassment
Protecting Your Reputation
and Getting on with Your Life

Darrell Castle & Associates, PLLC
darrellcastle.com • @DLCLMemphisLaw • (901) 327-2100

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part 1

What Creditors Can't Do

Janine works hard these days - two jobs, in fact. She gets home late every night and collapses into bed. She's tired. She doesn't have enough time for her kids. And she's in a lot of debt.

Lately, Janine's phone has been ringing off the hook. She doesn't answer any more; she's gotten so many calls over the last few weeks that she knows exactly who it is and what she'll hear if she picks up:

It's always a collection agency on the other end of the line. A gruff male voice tells her he's going to call the police if she won't pay. She begs him to leave her alone, to call earlier in the day, or at least to tell her his name. He curses at her and hangs up.

Janine is behind on her house and car payments and has credit card debt, too. Even working two jobs won't make up the difference. These worries are the last thing she needs on her mind right before bed. The calls are scary and exhausting, and if Janine could pay, she would.

But there's good news that Janine doesn't realize: these calls may also be illegal.

The Fair Debt Collection Practices Act



Back in 1977, Congress passed a law called The Fair Debt Collection Practices Act (FDCPA) to help prevent creditors from abusing people. They've kept the law updated over the years as technology changes.

When it was first passed, consumers didn't have many protections. Creditors could threaten you and charge you for debts you didn't owe, and it was very hard to fight them about it.

In addition, a lot of creditors would give your name to a collection agency that specializes in getting you to pay. Sometimes these collection agencies were verbally abusive and even used fraud to get what they wanted.

That behavior still happens today; but now there's a way to fight it and punish the creditors that harass you.

Thanks to the FDCPA, there's a whole list of things creditors can't do, and a number of ways you can fight back if someone breaks the rules.

13 Things a Creditor CAN'T Do



- 1.** Call at all hours - Under the FDCPA, creditors can only call between 8am-9pm local time.
- 2.** Harass you at work - Creditors can only call you at work to find your contact information. They aren't allowed to tell your coworkers anything about your debt situation. They also can't call again if you tell them to stop contacting you at your workplace.
- 3.** Call family or friends about your debt - Just like your workplace, creditors can only contact family or friends in order to get your contact information.

- 4.** Threaten a fake lawsuit - False creditor threats are illegal. Technically a creditor can sue you over a debt, but they can't claim they'll sue you unless they intend to do so.
- 5.** Curse at you - Profanity, physical threats, and other abusive language is never allowed.
- 6.** Embarrass you online - Creditors can use the internet and social media to locate you, but they can't leave public messages or discuss your debt on public sites like Facebook or Twitter.
- 7.** Send misleading letters or documents - No fake letterhead, false bills, or letters that look like they're sent from a court or lawyer when they're really sent from a collection agency.
- 8.** Add fees or interest outside of your contract - They can't demand you pay more than you owe.
- 9.** Threaten to arrest you or send the police - There is no such thing as "debtor's prison" in the United States. You won't go to jail over a debt, and creditors can't threaten that you will.
- 10.** Call over and over - Creditors can't just keep calling multiple times a night. That's annoying and illegal.
- 11.** Keep contacting you in inconvenient ways after you've requested in writing that they stop - You can write to a creditor to tell them what times and methods are best to use when contacting you. If you do that, they usually have to comply.
- 12.** Publish your name on a "bad debts" list or in other public ways - Creditors can't publish your name or address in a public place. They can't even send you a postcard about your debt, because it could be read in the mail.
- 13.** Contact you at all if you have an attorney - Once you hire an attorney, creditors have to contact you through your lawyer.

PLUS the FDCPA includes certain information a creditor is required to give you:

Information a Creditor Has to Give You



When a creditor or collection agent contacts you, they have to give you certain information that protects you from abuse and fraud. If the creditor is unwilling to give you this information, it may be a sign they are scamming you or breaking the law.

Here's the information a creditor has to give you when asked:

1. Basic contact information.

The caller should always give you the creditor's name, what amount of money you owe, and for what debt.

2. How soon you have to dispute the debt.

A creditor has to tell you that you have 30 days to dispute the debt if you think it's wrong. They also have to tell you that if, after 30 days, you haven't disputed the debt, it will be assumed you agree that you owe the debt.

3. Mailed proof of the debt.

The creditor must tell you that if you dispute the debt they will send written confirmation of how much you owe. Then, if you do dispute the debt, they have to send you proof of exactly how much you owe.

4. A special warning.

When the creditor first contacts you, they have to give you a warning that they're contacting you regarding debt collection and that anything you say during the call could be used to collect the debt. In other words, if you verbally admit that you owe the debt, they could use that against you later.

As you can probably tell, a lot of debt collectors don't give all the information they're supposed to when they call. They may leave out important facts or refuse to answer your questions.

Fortunately, the FDCPA doesn't just stop there. The law gives you ways to protect yourself if a creditor breaks the rules.



part 2

Stopping the Creditor Threats

Ways to Stop Illegal Creditor Behavior



If you've been a victim of creditor harassment or abuse, here's what to do:

1. Keep a record of all communications.

It's important to keep accurate records of the date and time of the calls, the creditor's name (or any information you can get about who the creditor is), and the debt involved.

Write down any threatening or harassing language they use. You can even inform the creditor that you're recording your phone calls.

(These records may be useful if you decide to sue the creditor, which could be an option for you under the FDCPA.)

2. File a complaint. Complaints against a creditor may be filed with the following agencies:

- Federal Trade Commission
- Consumer Financial Protection Bureau
- Your state Attorney General's Office
- Better Business Bureau
- Association of Credit and Collection Professionals
- National Association of Consumer Advocates

3. Talk with an attorney. You may be entitled to compensation - imagine that, the creditor owing you money!

How to Dispute a Debt



If you believe a debt is in error, don't just ignore collection letters and phone calls. There are strategies for putting a stop to these calls, but ignoring the issue won't magically make it go away.

Don't pay a debt you don't owe to make the creditor go away. Paying any money can be considered an admission of responsibility for the debt. In the case of a scam—and these are sometimes scams—paying money for one debt may encourage an attempt to collect even more money from you.

After a creditor contacts you, you have 30 days to dispute the debt. That means you have to tell the creditor in writing that you don't believe you owe the debt or owe as much as they say you do. If you have proof that you've paid the debt, you can send this information to the creditor as well. Once the debt collector gets your letter, they have to send written proof of your debt. If they can't do that, they aren't allowed to contact you again about the debt.

Make sure to keep a copy of the letter for your records. Send the letter by certified mail and request a return receipt.

Here is a sample letter you can use to dispute a debt:



Initial Debt Collection Dispute Letter*

Today's Date

Your Name
Your Address

Collector's Name
Collector's Address

Dear {insert name of collector or company},

I am writing in response to your (letter or phone call) dated {insert date}, (copy enclosed) because I do not believe I owe what you say I owe.

This is the first I've heard from you, or any other company on this matter.

In accordance with the Fair Debt Collection Practices Act, Section 809(b): Validating Debts:

(b) If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or any copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

I respectfully request that you provide me with the following information:

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) a verification or copy of any judgment (if applicable);
- (4) proof that you are licensed to collect debts in (insert name of your state)

Be advised that I am fully aware of my rights under the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. For instance, I know that: because I have disputed this debt in writing within 30 days of receipt of your notice, you must obtain verification of the debt or a copy of the judgment against me and mail these items to me at your expense; you cannot add interest or fees except those allowed by the original contract or state law. you do not have to respond to this dispute; but if you do, any attempt to collect this debt without validating it, violates the FDCPA.

Also be advised that I am keeping very accurate records of all correspondence from you and your company, including recording all phone calls, and will not hesitate to report violations of the law to my State Attorney General, the Federal Trade Commission and the Better Business Bureau.

I have disputed this debt; therefore, until validated you know your information concerning this debt is inaccurate. Thus, if you have already reported this debt to any credit-reporting agency (CRA) or Credit Bureau (CB), then you must immediately inform them of my dispute with this debt. Reporting information that you know to be inaccurate or failing to report information correctly violates the Fair Credit Reporting Act 1681s-2. Should you pursue a judgment without validating this debt, I will inform the judge and request the case be dismissed based on your failure to comply with the FDCPA.

Finally, if you do not own this debt, I demand that you immediately send a c How to Tell a Creditor Not to Contact You / When to Contact You

If you don't want a creditor to call you at work or contact your relatives and friends, you have to let the creditor know.

First, if speaking by phone, you should tell them the following:

"Under the Fair Debt Collection Practices Act, you must not contact my family, friends, or place of employment except to find my contact information. You may contact me the following way(s): {email, address, phone number}. Because you have this information, you must not contact my family, friends, or place of employment by phone, mail, internet or any other method."

Make sure to record the conversation in writing or, if possible, with a recording device.

Then, for further protection, you can follow this statement with a letter stating the same demands in writing. [How to Tell a Creditor Not to Contact You / When to Contact You](#)

If you don't want a creditor to call you at work or contact your relatives and friends, you have to let the creditor know.

First, if speaking by phone, you should tell them the following:

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Make sure to record the conversation in writing or, if possible, with a recording device.

Then, for further protection, you can follow this statement with a letter stating the same demands in writing. Copy of this dispute letter to the original creditor so they are also aware of my dispute with this debt.

Signature here

Your Printed Name

*From: <http://consumerist.com/2007/07/18/sample-letter-for-disputing-a-debt-collection-notice/>

How to Tell a Creditor Not to Contact You / When to Contact You



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How to Stop Wage Garnishment



When money gets deducted from your paycheck or salary because of an unpaid debt, it's called wage garnishment. It's also sometimes referred to as a levy, wage assignment or earnings withholding order.

Wage garnishment happens when a creditor files a lawsuit against you over a debt. They inform you and then have a hearing.

Even though they have to tell you it's happening, the warning can often seem like the same old harassment you've been getting from them for months. So you might ignore the process and not attend the hearing. When that happens, the court will typically order a judgment to have your wages garnished.

You have ten days to appeal the decision, although you may not even realize any of this is happening because you weren't there for the hearing. Then, ten days after the judgment is granted, the garnishment order can go to your employer, who has no choice but to take the money out of your paycheck.

To account for court costs and attorney fees, the judgment will usually be about one-third higher than your actual debt.

You only have three options for stopping wage garnishment once it's issued:

1. Pay the debt or work out a settlement.
2. File a motion to pay by installments, which is also a form of payment like #1.
3. File a bankruptcy.

For many reasons, wage garnishment is extremely hard to stop just by paying some money. The added interest and attorney fees make it an even bigger debt, and you usually have no money – if you did, you would have paid already. Also, at this point in the process the creditors can be uncooperative. They know if they stick to taking money from a person's wages, they're more likely to receive regular payment.

Bankruptcy is one of the only options for stopping wage garnishment successfully. Once you file bankruptcy, the courts immediately put an end to any garnishments affecting you.

If you can, it's much better to start the bankruptcy process before any sort of garnishment begins. Starting early can help prevent a lot of stress and embarrassment with your employer.

Our bankruptcy lawyers take wage garnishment very seriously and do whatever they can to help our clients prevent and/or end it.

How to Stop All Other Creditor Actions Against You



When you simply can't pay a debt, one of the best ways to stop creditors from harassing you may be to file bankruptcy.

Bankruptcy comes with an automatic stay designed to stop creditors from threatening you, your property, and your paycheck.

So along with stopping wage garnishment, filing bankruptcy immediately stops any harassing phone calls, lawsuits, repossessions, and foreclosure actions that may be keeping you up at night.

If the creditor violates the automatic stay, you may be able to sue the creditor and be compensated. The courts take the automatic stay restriction very seriously and have protections in place so you aren't harassed any further.

Darrell Castle & Associates - Your Answer to Creditor Harassment

The decision to file for bankruptcy isn't easy, but the process certainly can be. Our attorneys can help you figure out the next steps to take.

If you want to put a stop to creditor harassment, call us at **901-327-2100**. The conversation is free.

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We are a debt relief agency. We help people file for bankruptcy under the bankruptcy code.