Region Legal Service Office,
Naval District Washington
Legal Assistance Department

Preventative Law Handout

DEBT COLLECTION

There are a number of laws that protect you from unfair and abusive debt collection practices. The federal law will **almost always** apply, but your state's law will **always** apply! Be sure to check both federal and your state's law.

Federal:
The Fair Debt Collection Practices Act, 15 U.S.C. § 1692, applies to third-party debt collectors (those who collect debt on behalf of the creditors) or to creditors who collect debt under another name.

(1) Debt collectors are prohibited by federal law from engaging in unfair, deceptive, harassing, and misleading debt collection activity. For example, a debt collector cannot threaten arrest or use obscene language.
(2) Debt collectors cannot contact neighbors, friends, family members, co-workers, or employers regarding a debt: Debt collectors can only contact these people to get information about your location, and only if that information is unavailable from other sources. Keep a detailed log of any contact by the debt collector (date and time of call, name of person calling, etc.).
(3) Debt collectors cannot contact you before 8:00 a.m. or after 9:00 p.m.: Keep a detailed log of any contact by the debt collector (date/time of call, name of person calling, etc.).
(4) If you want the communication to stop, send a "cease and desist" letter: Tell the debt collector to stop contacting you. Send the letter by certified mail, return receipt, and keep a copy of the letter and the return receipt. Note that if the creditor itself, rather than a third-party debt collector, is contacting you, this letter will be ineffective. Also note that sending this letter does not relieve you of the obligation to pay the debts.
(5) If sued, seek legal representation: If you do not seek legal representation, respond to the complaint in the time provided in the court papers.
(6) A debt collector is required to send a "validation notice": A validation notice is usually contained in the initial letter from the debt collector and states how much is owed on the account claimed due, the name of the current creditor, your right to request the name of the original creditor, and your right to dispute the debt and obtain verification. If you have not received such a letter, you may request one in writing from the debt collector.
(7) If you dispute the debt or any part of it (including the identity of the creditor): Send a "dispute letter" by certified mail, return receipt, to the debt collector within 30 days of receipt of the validation notice.
(8) If you work out a payment with the debt collector, get it in writing before you pay: Make sure all terms are included in the letter, including updated credit reporting and the removal of negative credit reporting by the debt collector.

(9) Report unlawful debt collection activity: Report such activity to the Consumer Financial Protection Bureau (www.consumerfinance.gov), the Federal Trade Commission (www.ftc.gov), and your local state Attorney General's Office (www.naag.org).
(10) If the Fair Debt Collection Practices Act is violated: You can sue a debt collector for engaging in unlawful collection conduct and may be entitled to damages, plus legal costs and fees. Legal Assistance and the Fleet and Family Support Centers are available to assist servicemembers in addressing debt collection issues.

WHAT MUST THE DEBT COLLECTOR TELL THE DEBTOR?

When contacted by a debt collector, they must notify you of the following:

(1) The amount of the debt.
(2) The name of the creditor to whom the debt is owed.
(3) A statement that the debt will be assumed to be valid unless you notify the debt collector within 30 days that the debt is disputed.
(4) A statement that the debt collector will verify the debt and send you written verification if you notify them in writing within 30 days that the debt is disputed.
(5) A statement that the debt collector will send you the creditor's new name and address (if it has changed) if you request it from the debt collector in writing within 30 days.

HOW TO STOP COMMUNICATIONS FROM THE DEBT COLLECTOR

If you notify the debt collector in writing either that you refuse to pay the debt or that you want the debt collector to stop contacting you, the debt collector MUST STOP, subject to a few exceptions. They may still contact you to tell you that efforts to collect the debt are terminated, that a specific action is being taken, or that the collector intends to take certain actions which are normally taken. Remember, just because you can stop them from contacting you does not mean you are relieved of the debt!

YOUR REMEDIES IF THE DEBT COLLECTOR VIOLATES THE FDCPA

You can hold the debt collector liable for any damages which you suffer as a result of the debt collector's violation of the FDCPA, as well as attorney's fees for any civil action you bring to enforce those rights. Additionally, the court may award you statutory damages of up to $1,000.

Washington, D.C.:

D.C.'s law says that debt collectors cannot try to collect on debts by using threats or coercion. This means that debt collectors can't threaten you with violence or harm to your reputation or property, including falsely accusing you of a crime or noncriminal but embarrassing behavior. They also cannot threaten to falsely report you to a credit agency or threaten you with arrest. D.C. Code § 28–3814(c).

Importantly, debt collectors are forbidden from unreasonably oppressing, harassing, or abusing **any person** in an attempt to collect debt. This means that they can't swear or make anonymous threatening phone calls to **you or anyone else**, or cause you to run up your phone bill by pretending to be someone else. § 28–3814(d).

Debt collectors cannot unreasonably publicize information about your debt. This means they generally can't communicate about it with your employer or your family members outside of your household. They also can't publish or post any list showing you as owing debt or put your private information on a letter or other communication that someone else could be expected to see. § 28–3814(e).

Debt collectors can't lie or mislead **in any way** in the course of collecting debt. In particular, this means they can't pretend to be someone they're not or pretend to be doing anything other than collecting debt. They also can't lie about the amount of the debt. § 28–3814(f).

Maryland:
Maryland's law, the Maryland Consumer Debt Collection Act, says that a debt collector can't threaten you with force or violence, criminal prosecution, or the disclosure of false information about your credit worthiness or information that could affect your reputation. They also generally can't contact your employer, communicate with you at unusual hours, swear at you, make a false legal claim against you, or pretend to be working for a court or government. Debt collectors also must be properly licensed with the state. Maryland Code § 14–202. If a debt collector does any of these things, or if they violate certain provisions of the federal law described above, you can sue them for damages caused by the violation. §14–203.

Virginia:
Virginia does not have its own state law regarding debt collection practices, but Virginia residents are still protected by the federal law detailed above.

RESOURCES
D.C. Code: https://code.dccouncil.gov/us/dc/council/code/sections/28-3814.html
Maryland Consumer Debt Collection Act (select "Commercial Law" under "Articles" then scroll down to "14-201" under "Sections"): https://mgaleg.maryland.gov/mgawebsite/Laws/Statutes
Federal Trade Commission: www.ftc.gov

This handout is for informational purposes only and is not intended to be specific legal advice. If you need legal advice, speak with an attorney at your nearest Legal Assistance Office. Legal Assistance Offices can be found at https://legalassistance.law.af.mil/

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