

# Know Your Rights: Debt Collection Abuse (FDCPA)

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In spite of federal and state legislation, debt collectors continue to abuse consumers in order to unfairly pressure them into paying debts. These abuse tactics are often intended to scare or intimidate consumers, sometime with threats of violence or arrest. Other debt collectors will try to pile on illegal interest or fees to make the debt seem larger that it actually is. In some instances, these debts are time-barred, discharged in bankruptcy, or not owed for other reasons.

The Federal Fair Debt Collection Practice Act (FDCPA) bars all forms of unfair, abusive and deceptive collection practices. While the statute provides a laundry list of potential violations, this list is not exclusive. The statute also provides a general prohibition on any form of deception, abuse, or unfair treatment.

Here's a general rule of thumb you can use to interpret this: If your mother would be upset about you treating other people the way that you were treated by the debt collector, then the conduct probably violates the FDCPA.

## What Are My Rights?

Federal and state laws give you rights against bill collector harassment. Collection agencies and debt collectors are required to provide you with a notice of your rights within 5 days of the first communication with you. Below are all listed in section 1692c of the FDCPA:

You have the absolute **right to demand that a debt collector cease communication**. You just have to write a letter setting forth your demand. If you notify the collector that you refuse to pay the debt, that notice also serves as a cease communications notice. In either event, the debt collector may no longer communicate with you except to notify you that he is exercising specific rights.

Debt collectors are prohibited from collecting debts that are not owed. You have the **right to demand that the debt collector prove you owe the money**. This process is known as "validation" of the debt. Debt collectors must notify you of this right, and if you request validation in writing within 30 days of receiving your notice of rights, the debt collector must either validate the debt to you or cease collection efforts.

## What Should I Do?

You should **gather and organize all the information you can** about the debt, as well as the collection efforts of any past or current collectors who contacted you. The past correspondence provides important information about the kinds of charges and interest that have been added to the debt.

If you have copies of your credit reports, you will need those also. The credit reports also contain historic information about the debt, including the time it was incurred, when it was defaulted, and who may have collected it previously

If you have any **notes about the debt or any taped conversations, threatening letters, or any communication whatsoever with the collector**, these can be extremely valuable in reconstructing the collection efforts and any abuse. Whenever you are contacted by a collector, you should note the date, time, person you are speaking to and the content of the call including any abusive language or threats. If at all possible, you should keep these notes together in one central spot.

If you have any **witnesses who can corroborate that you were abused**, you should get a brief statement from that witness in their own words. These statements will help to refresh the witnesses' memories when you get to trial and provide information to your attorney.