Debtors' Rights: Dealing with Collection Agencies

Collection agencies are calling me nonstop. What can I do?

Read this for help understanding debt collection practices and your rights. If a collection agency is suing you OR there is already a judgment against you, see Debtors' Rights in a Lawsuit or packets on How to Answer a Lawsuit for Debt Collection or How to Claim Personal Property Exemptions. Get these at our website: www.washingtonlawhelp.org.

What is a collection agency?

Federal and Washington state laws define a collection agency as a business or organization whose principal purpose is collecting debts. This does not include the credit or collection office of a business whose primary purpose is not debt collection. Example: The credit office of a large department store or car dealership, or a bank that issues credit cards and attempts to collect a debt, is not a "collection agency" within the meaning of the law. Collection of debts is not their main business.

> ❖ Lawyers who regularly collect consumer debt are also "debt collectors" who must comply with the federal law.

There are both federal and state laws protecting debtors whom collection agencies contact. In Washington, these laws are the "Collection Agency Act" (RCW 19.16.100) and the "Consumer Protection Act" (RCW 19.86.010). The federal act is the "Fair Debt Collection Practices Act" (15 U.S.C. 1692). You can find these laws at your local library or online.

> ❖ Under state law, a collection agency also includes someone trying to enforce a medical lien (a claim against your property stemming from an unpaid medical or ambulance bill).

What if I do not think I owe the debt?

When a collection agency first contacts you in writing about a debt, its notice must have certain information in it. (If the collection agency first contacts you by phone, you should insist they contact you in writing.) The first written notice from a collection agency must have:

- The collection agency's name and address
- The debt amount, stating the original debt and a breakdown of other costs or interest
- The name of the creditor you owe
- A statement that unless you dispute the debt within 30 days after you get the notice, the agency will assume the debt is valid
- A statement that, if you request it within 30 days, the collector will provide the original creditor's name, if different from the collector
- A statement that if you notify the debt collector in writing (within 30 days of receiving the notice) that you dispute the debt, the collection agency will mail you verification of the debt

- **Every** communication from a collector must clearly state that the purpose of the communication is to collect a debt, and it will use any info it gets from you for that purpose.

You must notify the collection agency in writing within the 30-day period described above if you disagree that you owe any of the debt. Once the collection agency gets your written notice that you dispute the debt, it must stop collection until it sends you its proof that you do owe it.

Keep copies of what you send the collection agency. Whenever possible, use certified mail, return receipt requested. See Form Letter #1 at the end of this publication.

Some examples of disputes of debts:

- You do not believe you owe the debt or amount as stated
- You already paid the debt
- You had medical coupons, and the creditor should have billed the state
- You were hospitalized, you told the hospital you could not pay for care, and the hospital should have considered payment under a charitable care policy
- You believe collection of the debt is time-barred (see below)

A collection agency must start a legal claim against you within certain legal time limitations. Otherwise it is "time-barred." This means the claim has expired. The collection agency waited too long and cannot bring the claim now.

The exact time limitation will depend on the basis for the debt or type of claim being made. Most claims based on written contracts or accounts receivable governed by WA law must be begun within **six years**. Most claims based on oral contracts or accounts receivable must be begun within **three years**.

Can I stop the collection agency from contacting me?

Mostly. Under the Fair Debt Collection Practices Act, if you notify the collection agency IN WRITING you want it to stop further communication with you, they can only contact you again to advise you

- that it will stop trying to collect from you OR
- it intends to take action, such as filing a lawsuit against you

This law applies even if you do owe the debt.

If you write the collection agency such a letter, you must include:

- Your name and address
- If available, the account number on the collection agency's statement
- The date
- A statement that you are exercising your rights under the Fair Debt Collection Practices Act
- A statement that you want the collection agency to stop calling or writing you, or both

See Form Letter #2, at the end of this publication. KEEP A COPY OF THIS LETTER. Mail the original to the collection agency. Mail a copy to the original creditor.

YOU MUST SEND THE COLLECTION AGENCY THE LETTER. If, after you send it, the collection agency contacts you again for some reason other than the two reasons stated above, they have violated the Fair Debt Collection Practices Act. Under this law, you

may sue the collection agency for money damages and lawyer fees.

> ❖ This will not stop the collection agency from suing you. It only stops them from calling and sending you letters.

Which property and income does the law protect from debt collection?

The kinds of **income** that cannot be taken are:

- Social Security
- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- All pensions (private, federal and civil service) once deposited into your bank account or cashed
- Labor & Industries disability payments
- Unemployment Compensation

Some of your wages are also exempt: The greater of 35 times the current federal minimum wage or 75% of your net wages. ("Net wages" is gross pay minus taxes, Social Security, and other mandatory deductions.) Call the Department of Labor to find out the current federal minimum wage, or check here: http://www.dol.gov/whd/flsa/index.htm. Then multiply that amount by 35.

> ❖ **Example**: As of 2017, the federal minimum wage is $7.25 an hour. If you make less than $253.75 a week net, all your wages are exempt. If you make $400 a week, $300 is exempt (since $300 is 75% of your wages, and that amount is more than $253.75).

> ❖ This income is usually not exempt from garnishment for child support payments or taxes.

If your income is exempt from garnishment, let the collection agency know in writing. Keep a copy of the letter.

Example: Your only income is Social Security, which is exempt by federal law from garnishment. You would put just that in your letter. You should also put this info in all your other written correspondence to the agency. (**Example:** a "cease communication" letter, meaning you tell the agency to stop contacting you.)

This is not a defense to the underlying claim. It does let the collection agency know your only income is exempt from garnishment. If the collection agency successfully sues you and then garnishes your bank account containing exempt funds, you may be able to sue the collection agency.

This **property** cannot be taken to collect a debt:

- $125,000 equity in your home
- Your car, if it is of limited value
- Your personal belongings, up to a certain monetary limit

If a creditor or collector is trying to garnish your income or property, see How to Claim Personal Property Exemptions and Debtors' Rights in a Lawsuit.

What are unlawful practices?

Both the Washington Collection Agency Act and Federal Fair Debt Collection Practices Act prohibit harassment, false or misleading statements and unfair practices by collection agencies. If you believe you a collection agency has unreasonably harassed or misled you, you can sue it. If you win, you can collect

damages and lawyer fees. Here are some **examples** of violations:

- The collection agency threatens to or actually does tell your employer or neighbors about the debt.
- The collection agency calls at hours defined by law as "unreasonable" (9:00 p.m. - 8:00 a.m. under federal law; 9:00 p.m. –7:30 a.m. under state law).
- The collection agency threatens you with illegal action (example: threatening to take money out of your Social Security check, taking other exempt property, or threatening arrest or jail).
- The debt collector communicates with you or anyone in your household in a harassing, intimidating, threatening, or embarrassing way.
- The debt collector communicates with you or your spouse more than three times in one week.
- The debt collector sends you notices that deliberately look like government documents or a telegraphic or emergency message.
- The debt collector asks for a postdated check in order to threaten you with criminal prosecution.
- The debt collector deposits a postdated check before the date on the check**. A collector's acceptance of your postdated check violates the law unless you had three to ten business days' notice before the collector deposited the check.**

If you believe a collection agency has violated your rights under state or federal law, or a collection agency sues you on a debt you do not believe is valid, contact a lawyer. Agencies taking complaints about violations of the Fair Debt Collection Practices Act and the Washington Collection Act are:

Department of Licensing Collection Agency Board PO Box 9034 Olympia, WA 98507-9034 Phone: 800-451-7985 FAX: 360-750-6699 Email: BLS@dol.wa.gov	**Federal Trade Commission** 915 Second Avenue, Room 2806 Seattle, Washington 98174
Mail to the Consumer Resource Center nearest you:	
Bellingham - Island, San Juan, Skagit and Whatcom Counties 103 E. Holly Suite 308 Bellingham, WA. 98225 Telephone: 360-676-2037 Fax: 360-738-6190 **Kennewick - Southeast Washington** 8127 W. Klamath Ct. Building 6, Ste. A Kennewick, WA. 99336-2607 Telephone: 509-734-7140 Fax: 509-734-7285 **Seattle - King, Snohomish, Clallam and Jefferson Counties** 800 5th Ave., Suite 2000 Seattle, WA. 98104 Telephone: 206-464-7744 Fax: 206-464-6451	**Spokane - Northeast Washington** 1116 W. Riverside Spokane, WA. 99201-1194 Telephone: 509-456-3123 Fax: 509-458-3548 **Tacoma - Pierce, Mason, Grays Harbor and Kitsap Counties** 1250 Pacific Ave., Ste. 105 Tacoma, WA 98402 Telephone: 253-593-2904 Fax: 253-593-2449 **Vancouver - Thurston, Lewis, Pacific, Cowlitz, Skamania, Clark and Wahkiakum** 1220 Main St. Suite 510 Vancouver, WA. 98660 Telephone: 360-759-2100 Fax: 360-759-2159

What can I do on my own?

Make sure you have strong proof that the collection agency violated the law. You should:

- Set up a place to keep everything you get from the collection agency, including envelopes.
- Make notes of every phone call from the collection agency, including the date, time, content, and names of people involved in the conversations.
- If you learn the collection agency has contacted anyone other than you, make notes of the same info.
- If the stress of dealing with a collection agency begins to result in physical, mental or emotional problems for you, see a counselor or doctor of your choice. Discuss the situation thoroughly with them.

What if I need legal help?

- Apply online with CLEAR*Online - https://nwjustice.org/get-legal-help or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- Outside King County: Call 1-888-201-1014 weekdays from 9:15 a.m. until 12:15 p.m.
- King County: Call 211 for information and referral to an appropriate legal services provider Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274). You can also get information on legal service providers in King County through 211's website at www.resourcehouse.com/win211/.
- Persons 60 and Over: Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 using the relay service of their choice.

211 and CLEAR will conference in interpreters when needed at no cost to callers.

Free legal education publications, videos and self-help packets covering many legal issues are available at www.washingtonlawhelp.org.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.
This information is current as of January 2017.

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Form letter #1: No-contact letter, verification request.

You can use this “no-contact letter” form with collectors. Check the boxes next to any appropriate language in the letter that applies in your case.

This letter includes a general request for verification. If you have specific disputes (for example, if you want to dispute that this is your account), you should ask for information related to those in the verification request, and mention those specific disputes in the letter.

TO:_____ By Certified Mail RRR
_____ #_____
_____
_____

RE: ACCOUNT #_____

Dear Sir/Madam:

I write to request that you stop communications to me regarding my account. The Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., requires you to honor my request.

Under the Fair Debt Collection Practices Act, once I have asked you to stop contacting me, you may only communicate with me to (1) advise me that your further efforts are being terminated, (2) notify me that you may invoke specified remedies that you normally invoke or (3) where applicable, to notify me that you intend to invoke a specified remedy.

Please provide me with the following:

(1) Verification of any debt relating to my account
(2) The name and address of the original creditor and the current creditor
(3) Confirmation that any such debt and the accuracy of the items in the files relating to me will be treated as disputed
(4) Forms and assistance I can use to dispute the accuracy of such items

Until advised otherwise, you should consider this debt to be disputed.

☐ Furthermore, I have been the victim of abusive collection practices by agents of your company. Specifically:
_____
_____
_____.

Such practices violate Federal law and place you in jeopardy of legal liability.

☐ I also wish to inform you that my sole source of income is Supplemental Security Income (SSI)/ Social Security. As a result, my income is exempt from garnishment for this type of debt. I have no non-exempt assets.

Thank you for your cooperation.

Sincerely,

Dated: _____ _____(print name)
_____(street address)
_____(city, state & zip)

Form letter #2: No-contact letter, no verification.

You can choose to use the following "no-contact letter form" to deal with collectors. Check the boxes next to any appropriate language in the letter that applies in your case.

◈ This form letter does not include a request for verification.

TO:_____ By Certified Mail RRR
_____ #_____
_____
_____

RE: ACCOUNT #_____

Dear Sir/Madam:

I write to request that you stop communications to me regarding my account. The Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., requires you to honor my request.

Under the Fair Debt Collection Practices Act, once I have asked you to stop contacting me, you may only do so to (1) advise me that your further efforts are being terminated, (2) notify me that you may invoke specified remedies that you normally invoke or (3) where applicable, to notify me that you intend to invoke a specified remedy.

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  Such practices violate Federal law and place you in jeopardy of legal liability.

- ☐ I also wish to inform you that my sole source of income is Supplemental Security Income (SSI)/ Social Security. As a result, my income is exempt from garnishment for this type of debt. I have no non-exempt assets.

Thank you for your cooperation.

Sincerely,

Dated: _____ _____(print name)
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_____(city, state & zip)