The major law dealing with illegal debt collection conduct is the federal Fair Debt Collection Practices Act (known as the FDCPA). The FDCPA only applies to debt collectors (including collection attorneys), but state law may have similar requirements for the creditor’s own collection efforts.

The FDCPA requires collection agencies to take certain actions, including:

- The collection agency must stop contacting you if you make a request in writing.
- The collection agency, in its initial communication or within five days, must send you a written notice identifying important information about the debt. If you raise a dispute in writing within thirty days of receiving that notice, the collector must suspend collection efforts on the disputed portion of the debt until the collector responds to the request.

The FDCPA also prohibits harassing collection conduct, including:

- Communicating about a debt without your permission with your relatives, employers, friends, neighbors, or others. Collectors may contact attorneys, credit bureaus, cosigners, and your spouse. They can contact others only to locate you and cannot reveal that a debt is involved.
- Using any communication, language, or symbols on envelopes or postcards that indicate that the sender is in the debt collection business.
- Communicating with you at unusual or inconvenient times or places. The times 8:00 a.m. to 9:00 p.m. (in the time zone where you live) are generally considered convenient, but daytime contacts with a consumer known to work a night shift may be inconvenient.
- Contacting you at work if the collector should know that your employer prohibits personal calls.
- Contacting you if you are represented by a lawyer.
- Using obscene words, racial slurs, insulting remarks, or threats of violence.
- Telephoning repeatedly with intent to annoy, abuse, or harass.
- Falsely representing the character, amount, or legal status of a debt.
- Falsely stating or implying a lawyer’s involvement.
- Stating that nonpayment will result in arrest, garnishment, or seizure of property, unless lawful and the collector intends to take such action.
- Contacts not disclosing that collector is attempting to collect a debt.
- Collecting fees or charges the collector is not entitled to collect.
- Depositing post-dated checks before their date.
- False impressions that collector is a government affiliate or agent.

Finding an Attorney to Sue a Debt Collector. You can sue debt collectors that violate your rights. If you win a lawsuit under the FDCPA, you can recover money for any injuries, up to $1000 in additional damages, and attorney fees.

The National Association of Consumer Advocates (NACA) is a good resource to help you find an attorney to take your case to sue a debt collector for illegal debt collection conduct. Members by state and specialty are listed at www.consumeradvocates.org/find-an-attorney [1]. Families with low incomes and limited assets may be eligible to obtain free legal services from a neighborhood legal services office. You can find legal aid programs at www.lawhelp.org/find-help [2]. Other consumers can contact local bar associations for attorney referrals.

What You Should Tell Your Attorney. Tell your attorney how the collector’s misconduct affected you and your family. Overcome any reluctance to discuss your feelings about the harassment, since the details will be critical in determining what kind of legal case you have. All symptoms of emotional distress should be discussed, including: anxiety, embarrassment, headaches, nausea, indignation, irritability, loss of sleep, and interference with family or work relationships. Did you consult a doctor? Were there illnesses brought on by the harassment?

Share information about out-of-pocket losses with your attorney, from loss of employment to loss of wages because of time taken off from work to try to resolve the dispute. In addition, telephone charges, transportation, medical bills, and counseling services could all be part of your actual damages. Keep a record of all expenses related to the collection effort.

Make a log of all collection contacts with as many details as possible for each contact: time, date, company, caller, and what was said. Abusive voicemail messages should not be erased, if at all possible.
For More Information. NCLC’s *Fair Debt Collection*, available at [www.nclc.org/bookstore](http://www.nclc.org/bookstore) [3], is a comprehensive legal treatise on bringing federal and state legal claims against debt collectors.

Source: National Consumer Law Center, Surviving Debt [50th NCLC Anniversary Edition], updated at www.nclc.org/library

Source URL: https://library.nclc.org/sd/0205

Links