

Advice For Consumer Debtors

 kaplancollectionagency.com/resource-center/advice-to-debtors

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Receiving a call from a collection agency can be stressful. While our collection agency only collects from other business and not individuals, we've created this resource to help people when they are contacted about their personal past due bills.

In this guide you'll learn:

1. **What the Federal Debt Collections Practices Act (FDCPA)** and how this federal law protects individuals.
 2. **What steps you should take if you're contacted by a collection agency**, including sample cease and desist and request letters that you can send.
 3. **How to find a reputable service to help you** deal with collection agencies, credit card companies, and other businesses to help you lower the amount you have to pay and get out of debt.
 4. **How individuals and small businesses can find reputable collection agencies** if you ever need help collecting money owed to you.
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What is the FDCPA?

The Fair Debt Collection Practices Act (FDCPA) is a federal law that restricts the behavior of collection agencies when they are attempting to collect money from individuals. The law does not apply to collecting from businesses and it does not apply to collections performed by the entity that issued the bill you have not paid.

The law ([a full copy of FDCPA can be found here](#)) restricts the ways that collection agencies can contact you, the times of day and the number of times a collection agency can contact you, what they can say, and how you can get them to stop contacting you..

Some provisions of the FDCPA include:

- Debt collectors can only call between 8:00 am and 9:00 pm (unless you have agreed to other times).
- It is illegal for debt collectors to harass, physically threaten you, or threaten you with arrest. They legally can't threaten to sue you unless they are actually planning to litigate.
- If you tell a debt collector either verbally, or in writing, not to call you at work, he or she must stop calling you at work.
- A request to stop contacting you at your home must be in writing.

- Debt collectors can only call friends, relatives, or neighbors once, and cannot give out any information about your debt.

If the collection agency has a legitimate reason to believe that you owe the money, they can contact you repeatedly, report to credit bureaus, refer your file to an attorney or initiate litigation. If they do go to court because you ignore them, your credit score will be damaged, the amount you end up paying could be a lot more than what you could have negotiated, and they can pull the money out of your bank account at the worst time, making it so you can't pay other bills such as rent.

If you are dealing with a reputable collection agency, our recommendation is to deal with them to solve the problem – that's what they've been hired to do.

If the collection agency that is contacting you is blatantly violating the FDCPA, then there is a good chance it's a scam and not a legitimate debt.

What To Do If A Collection Agency Contacts You

Although you may be embarrassed or surprised by the call or letter, the worst thing you can do is to ignore it. If you ignore it then you lose control of what happens and could easily end up in a far worse situation than if you work to solve the problem.

If you receive a phone call (or return a phone message), get the following information for your notes:

- 1. Who is contacting you:**

Name of the collection agency, their address, phone number, email address, case or file #, and the name of the person who has been assigned to your case.

- 2. Full description of the debt:**

Name of the company that claims you owe them, the amount owed, the date the debt was allegedly incurred, the product or service allegedly provided, and any interest or fees that have been added to the original amount owed.

- 3. A paper copy of the information:**

Once you have this information, ask them to mail (or email) you a full description of the alleged debt (often called a "validation letter" or "debt verification letter") and to not contact you by phone until you have received it.

The main point is that you want to get in writing all the information about the debt before you make any decision as to how you might want to resolve the matter. And you need a paper trail, whether in hard copy or email, so that you can follow up as necessary and have something in writing at the end saying the matter has been resolved. If you don't have this, someone else could come after you for the same debt and you might not be able to prove you have already paid it.

This infographic highlights the key steps to take:

What Should You Do If A **Collection Agency** Contacts You?

①



Get their
Contact
Information

②



Get
Information
on **Debt**

③



Have them
Mail it to you

» *What to do next?*

①

Know your rights

The FDCPA (Fair Debt Collections Practices Act) protects individuals.
A Cease and Desist Letter will stop harassing calls.

②

Watch out for scammers

Scammers pretend to be agencies, using actual agency names,
trying to get payment of non-existent debts.

③

If you don't owe

Mail a Refusal to Pay letter.

④

If this is your only debt

Negotiate for fee discounts, payment terms, or settlement
confirmed in writing before making first payment.

⑤

If you owe lots of people

Get free professional help to develop a comprehensive solution
to manage all your debt. *We recommend www.NFCC.org.*

Share this Image On Your Site

Watch out for scammers

Every week someone is contacting our firm saying they received a call or email from Kaplan about a debt. We know we never made these calls because we don't even collect from individuals (we only collect from business-to-business claims). But scammers are out there using our name and our phone number, telling people they owe money and just trying to get them to pay non-existent bills. That's why getting them to provide information in writing is so important, and you may even want to call them back to confirm the collection agency is legitimate if you don't recognize the debt.

What Should You Do if You Do NOT Owe the Debt

There are a variety of reasons why you may not owe the debt you are being asked to pay.

You paid the debt previously

You may need to provide proof that you have already paid.

You did not obtain the services/returned the product.

The company must be able to prove that you were provided the services or product. You may be required to provide proof that a product was returned.

You are not the person they think you are

Some names are common. Make sure that the "John Smith" the agency is looking for you is really you.

You are the victim of identity theft

Everyone is entitled to a free annual credit report from each of the three credit agencies. If you see evidence of identity theft and there are debts you don't believe you owe, you can submit an online dispute via AnnualCreditReport.com, or write the individual credit bureaus. The bureaus will investigate and, in instances of fraud, remove the collection account from your credit file.

The debt is so old that it is past the statute of limitations and is no longer enforceable.

Each state's rules on the statute of limitations is different. You can find the rules for your state [here](#). Occasionally, a collection agency will attempt to collect a debt that has passed the date limit or is almost at the date limit. In these cases it is important that you not make a token payment, or acknowledge the debt, as doing so may restart the clock on the debt.

If you do not owe the debt, you will want to write a letter to the collection agency disputing the debt and provide the documentation to show why you don't owe it.

We have created 3 letter templates that you can download and use for exactly this purpose:

DOWNLOAD THE DEBTOR LETTER TEMPLATES

LETTER #1 – Refusal To Pay
Your Name
Your Address
City, State, Zip

Date

Name of the Collection Agency
Address
City, State, Zip

Re: Acct #000000 (this is the # assigned by the collection agency to your file)

Whom It May Concern:

This will serve as your legal notice under the federal Fair Debt Collection Practices Act (FDCPA) that I **refuse to pay this debt because it is not valid**. Discontinue all communications with me as I will not be offering to pay any money to pay this debt because (and select a reason below or write your own explanation)

I have already paid this bill as shown in the enclosed documentation.

I never received the product/service and you did not provide any evidence to the contrary.

I am not the person who owes the money.

This charge is the result of Identity Theft so I am not responsible.

The debt is past the statute of limitations.

signature here

Sincerely,

Your Name

LETTER #2 – Letter to Cease All Communication With You
If you send this letter then they have to stop communicating with you and their only remaining option is to file a lawsuit against you. If there are judgments a large amount, there is a significant chance a lawsuit will be filed if you just cease all communication unless this letter. They might sue even if the debt is smaller (for example \$1,000 to \$5,000 or even less). You may be better off maintaining communication with them to try to convert a lawsuit from being filed (less our whole bank, if that is the case, see recommendation sending the next letter: Letter to Cease Telephonic and Text Communications)

Your Name
Your Address
City, State, Zip

Date

Name of the Collection Agency
Address
City, State, Zip

Re: Acct #000000 (this is the # assigned by the collection agency to your file)

Whom It May Concern:

This will serve as your legal notice under the federal Fair Debt Collection Practices Act (FDCPA), to cease all communication with me, my family and friends in regard to the debt referenced above.

If you contact me again, I will immediately file a complaint with the Federal Trade Commission and the [Your State] (and Attorney General's office. Any telephonic communications from your company may be recorded to be used as evidence for my claims against you.

Thank you for your attention to this matter.

signature here

Sincerely,

Your Name

LETTER #3 – Letter to Cease Telephone Calls and Text Messages And Request Information
Use this letter if you receive a debt collection notice in the mail and you want to request additional information to see if you owe the debt but you want to also keep them from calling you.

Your Name
Your Address
City, State, Zip

Date

Name of the Collection Agency
Address
City, State, Zip

Re: Acct #000000 (this is the # assigned by the collection agency to your file)

Whom It May Concern:

This will serve as your legal notice under the federal Fair Debt Collection Practices Act (FDCPA), to cease all telephonic and text communication with me in regard to the debt referenced above. **Do not contact me except via mail.**

If you call or text, I will immediately file a complaint with the Federal Trade Commission and the [Your State] (and Attorney General's office. Any telephonic communications from your company may be recorded to be used as evidence for my claims against you.

Furthermore, I formally **dispute the validity of this debt**. Please provide me with documentation that supports why you believe this debt belongs to me, and why you believe I owe this amount. You are also notified that should any adverse information be placed against my credit reports, appropriate actions will be taken under the federal Fair Credit Reporting Act (FCRA).

Thank you for your attention to this matter.

signature here

Sincerely,

Your Name

What if you owe the debt, but can't pay all of it immediately?

If this is your only debt and you can arrange for a payment plan, you should do so. It is the quickest way out of the situation. Remember, potentially everything is negotiable, including how long the payment plan lasts, whether or not you have to pay interest, fees, and possibly even getting a discount off the original amount given your financial circumstances. If they agree to a settlement (reduced amount) or a payment plan, make sure you get it in writing on letterhead (i.e. a formal agreement) before you start paying. Keep track of your payments so that you have proof the debt is resolved once you are done.

However, if you owe many debts that you cannot pay, even if they have not all reached the point of being turned over to a collection agency or attorney, it may be time for you to seek credit counseling and debt relief. Just paying one creditor does not solve your problem. If you use all your available money to solve only one debt, then you have nothing left to work with on all your other obligations. Instead, find a true professional who can help you navigate the situation and come up with a comprehensive plan.

When looking for credit counseling or debt relief, it is important to understand the variety of credit counseling services available. **A large percentage of the companies providing this service care far more about how much money they can make off you then solving your problem.** They will get you into deals you can't keep, but they don't care as they make money up front and then disappear when you stop paying and then get sued by creditors. Working with the wrong professional will make your problems worse, not better.

Some credit counselors are for profit business, while others are non-profit organizations. But just because they are a non-profit does not mean they really have your best interests at heart.

The National Foundation for Credit Counseling® (NFCC®) is the country's largest nonprofit dedicated to improving people's financial well-being. They can refer you to counselors in your area that provide financial reviews and help you determine a plan for dealing with your debt. The United States Trustee Program also keeps a list of credit counseling agencies approved to provide pre-bankruptcy counseling.

Once you've compiled a list of potential counseling services you should check each one out with your state Attorney General and local consumer protection agency. These government organizations can tell you if consumers have filed complaints about any one of them. Keep in mind though that a lack of complaints does not guarantee that the service is legitimate.

What if you are owed money?

Sometimes the shoe is on the other foot and you, as an individual or small business owner, are the one looking for a collection agency. Obviously, to protect your reputation and your business, you only want to work with a reputable and respectful collection agency.

This infographic can help you select a collection agent that best suits your needs.



HOW TO SELECT A COLLECTION AGENCY



WHO ARE YOU COLLECTING FROM?



BUSINESS



Commercial Collection Agency
Reputation Protection Critical



CONSUMER



Retail Collection Agency
FDCPA Compliance Critical



SIZE OF AGENCY NEEDED DEPENDS ON # OF CLAIMS AND SIZE OF CLAIMS

# of claims	Small	Medium	Large
1	Yes	No	No
2-5	Yes	Maybe	No
6-10	Yes	Maybe	No
11-100	Yes	Yes	Maybe
100-1,000	Yes	Yes	Yes
1,000+	No	Yes	Yes



BEST COLLECTION PROCESS DEPENDS ON CLAIM SIZE

Size of Claim	Type of Collector	
	Automated or Defined Approach	Specialist or Custom Approach
Under \$1,000	Yes	No
\$1,000 - \$5,000	Maybe	Maybe
\$5,000 - \$25,000	Unlikely	Probably
\$25,000 - \$1000,000	No	Yes
\$100,000	No	Yes



DESIRED COLLECTION PHILOSOPHY



PROFESSIONAL YET FIRM



FORCEFUL AND INTIMIDATING



ASSESS EFFECTIVENESS AND REPUTATION



TrustLink
REVIEWS

Google
REVIEWS

By consumers, for consumers.
Ripoff Report
Don't let them get away with it. It's our mission.



LinkedIn



Beware: most "Collection Agency Review" websites are not authentic - they are simply paid advertising sites



COST



Reputation and effectiveness more important than rate

Seek highest success rate at competitive





OTHER CONSIDERATIONS



Reporting Procedure
should be clearly defined
in writing



Written Contract is
Paramount

For more information on the criteria mentioned above,
see our comprehensive guide at
www.kgaction.com/how-to-select-a-collection-agency



The Kaplan Group - Large Claim Collection Experts - www.kgaction.com P:805-541-2639 © 2012

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If you happen to need help collecting \$10,000 or more from a business, please [contact us](#) to see if we can help. If you are owed money by individuals, or already have a judgment against an individual or business, or are owed money by a business but it is less than \$10,000, use our [collection agency referral system](#) to find agencies who would be interested in helping you.