



THE PLAIN DEALER

Know your rights when collector calls

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LISTEN ONLINE:

Hear one job-

less woman's telephone encounters with bill collectors in the latest Weekend Diary. The audio report, the second of two parts, is at cleveland.com/weekenddiary.

Last year, 66,627 people complained about debt collectors to the Federal Trade Commission.

They said debt collectors nagged them to pay money they didn't owe, told their friends about their debts and refused to show them proof of their debts - all of which are violations of the Fair Debt Collection Practices Act.

I don't think I grasped how stressful some of these conversations could be until Elaine Estes' family sent me a copy of the recording she said she made while a debt collector was on the line.

I wrote about that call last week (the column is still available online; look for my name at cleveland.com/columns). A debt collection trade group is investigating her complaint against the collector. Also, Estes sent complaints to several state and federal agencies and has hired an attorney on her own.

Which brings me to another important point about the Fair Debt Collection Practices Act: Not only does it lay out clear rules about what debt collectors can and can't do, it also allows you to sue if you believe your rights have been violated.

Here's what you need to know if a debt collector calls you:

Calls:

Debt collectors can call only between 8 a.m. and 9 p.m.

They can call you at work but have to stop if you tell them your boss doesn't approve.

You can write to a collection agency to demand it stop calling you at home, too, but that won't make a legitimate debt go away: A creditor could choose to note the debt on your credit report or seek a court judgment against you.

In writing:

Within five days of contacting you by phone, the debt collector must send you a letter telling you:

The amount you owe.

The name of the creditor you allegedly owe it to.

Instructions for disputing if you don't believe the debt is yours.

If you get a collection call, log the date on your calendar and start looking for that letter.

Mistakes:

There are several reasons you might get a debt collection call for an account you've never heard of: The account holder could have made a clerical error; your phone number may have once belonged to a debtor; the debt collector could have done a sloppy job tracking down the right "John Smith"; or you might be a victim of identity theft.

Tell the collectors if they're contacting you by mistake.

Do not ignore a debt collection notice that you believe to be in error. Once you get the written notice, write back within 30 days to inform the collector you truly don't believe the debt is yours. At that point, the collector must "verify" the debt, or send you proof, like a charge receipt, that you owe it.

If you ask for verification, the debt collector can't contact you again until it or its client sends you this proof.

Ed Icove, a Cleveland attorney who handles debt collection cases for consumers, says the debt collector can't simply leave you dangling - the company has to respond with either proof you owe or an assurance that it is dropping the matter.

If the collector agrees the account isn't yours, save the letter - these things have a way of boomeranging.

Dealing with debt:

Even if you owe a debt, remember that no one has the right to harass or abuse you.

See if you can work out a payment plan. Collectors buy debt for pennies on the dollar and may be willing to negotiate a lower price - but if you're going to negotiate, you need to get something in writing from the company in advance that states this lower payoff amount will settle the debt in full.

When you pay off a debt assigned to a collector, Icove advises, write on the back of the check a specific endorsement that says, "In full settlement of any or all claim arising from account number (Insert the original account number)." Save a copy of the endorsed check for your files.

Icove further suggests that you enclose the check in a letter that reiterates these terms and admonishes the debt collector not to report the account to any credit agency as due and owing.

If a debt is more than seven years old, it can't be reported on your credit report unless there's new activity on the account - for example, a payment. So if you want to make an old account good, get written assurances in advance that it won't go back on your credit report.

No-nos:

Debt collectors are forbidden to:

Harass you or people who know you.

Talk to anyone except you (or the attorney that you designate) about the debt.

Call people you know for any reason except to locate you.

Physically or verbally threaten you.

Swear at you or call you names.

Call you repeatedly (or call you right back if you hang up on them).

Imply they're government employees or imply they're with government agencies.

Say they're attorneys, if they're not.

Falsely imply you've committed a crime (debts are civil, not criminal).

Misrepresent the amount you owe.

Ignore your written denial of the debt. (They need to show you proof it's yours or assure you the matter has been dropped.)

Taping:

If you're getting calls you believe are abusive, you might consider taping them. Most states, including Ohio, allow you to record phone calls as long as one party to the conversation (for example, you) knows the call is being recorded. A few states require everyone on the line to know. Check before you tape. The Reporters Committee for Freedom of the Press has a reliable chart at www.rcfp.org/taping/.

Record-keeping:

Getting one debt collection call could mean you're in for others. "You may have three or four different debt collectors, in series, trying to collect the same debt," Ilove said.

That's because debts may be resold over and over. Or if a consumer demands verification, the account may be bounced back to the original account holder, who ships it off to a new debt collector.

To protect yourself, file away letters, logs of calls, canceled checks or other documents relating to the account - and plan to keep them for years.

Fighting back:

If you suspect a debt collector isn't playing fair, complain to both the Federal Trade Commission (1-877-382-4357 or www.ftc.gov) and to the Ohio attorney general (www.ag.state.oh.us or 1-800-282-0515).

You also can stop repeated or harassing calls by going to court. If you are low-income, you may qualify for help through Cleveland Legal Aid (216-687-1900 or www.lasclev.org).

Otherwise, you can find attorneys with experience representing consumers in debt collection cases through the National Association of Consumer Advocates' Web site at www.naca.net/db.php3. Set the filter to "Ohio" (don't fill in a city), and for "area" - as in area of law - select "FDCPA."

Or try the Cleveland Bar Association's free referral service at 216-696-3525.

More information:

The FTC's free Fair Debt Collection fact sheet is available online at www.ftc.gov/bcp/conline/pubs/credit/fdc.htm or call 1-877-382-4357.

If you have a consumer problem you haven't been able to resolve on your own, e-mail sherylharris@plaind.com; write to Plain Dealing in care of The Plain Dealer, 1801 Superior Ave., Cleveland, OH 44114; or call the Plain Dealing help line at 216-999-6344. By submitting a question, you are agreeing

to have it published in the paper.

Previous columns online:

cleveland.com/columns

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