

What can I do if a debt collector is reporting a debt to credit bureaus that I dispute?

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Especially in cases involving incorrect names, identity theft, and prior settled accounts, debt collectors unfortunately collect debts that are not valid or owed. If it happens to you, you should dispute it. A dispute can be made orally to invoke the law. Brady v. Credit Recovery Co., 160 F.3d 64 (1st Cir. 1998); Palmer v. I.C. Sys., Inc., 2005 WL 30001877 (N.D. Cal. Nov. 8, 2005). However, it would be best to communicate the dispute in writing and be able to establish when the debt collector learned of the dispute. Initially, understand that despite disputing the debt, it most likely will not stop debt collectors from continuing to attempt to collect the debt from you. At this stage, you may want to contact a lawyer to discuss the nature of your dispute to see if you have grounds to take legal action.

If you are concerned about your credit score, the fact that the item is disputed should help. When a consumer disputes a debt in some fashion, the debt collector is required by law to communicate the fact it is disputed, if they are reporting the item to credit bureaus. The Fair Debt Collection Practices Act ("FDCPA") prohibits:

Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed. 15 U.S.C. § 1692e(8).

It is also not uncommon for the debt collector to fail to follow this law. This is why after you dispute a debt you may want to check your credit report to see if indeed the debt is being reported correctly. If not, you again may want to consider contacting an attorney to pursue legal action under the FDCPA and maybe the Fair Credit Reporting Act ("FCRA"). The FCRA is another federal law designed to help consumers.

If you feel you have good grounds for your dispute and are not making progress with the debt collector or original creditor, you may also want to dispute the item with the credit bureaus. In that case, there are a number of possibilities that can happen. For one, if the wrongful reporting continues after a certain length of time, you could have a claim under the FCRA.

This post just skims the surface of the FDCPA and FCRA. These are federal statutes that are lengthy, have been in place for many years, and have hundreds of reported cases speaking to their interpretation. So, it is best to proceed with the advice of a lawyer familiar with these laws, even before taking any action with respect to a debt you dispute. In the event that you believe that a debt collector or creditor is collecting or reporting a debt wrongfully, or would like to discuss how to proceed after learning about an invalid debt, feel free to give us a call.

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