

# The Consumer's Guide to ENDING DEBT COLLECTION HARASSMENT



How to EASILY, QUICKLY and  
LEGALLY PROTECT YOURSELF  
from ABUSIVE BILL COLLECTORS

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The author is a federally defined Debt Relief Agency, and helps people file for bankruptcy.

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## ABOUT THE AUTHOR

Jay S. Fleischman, a partner in the law firm of Shaev & Fleischman, LLP, has been a New York consumer protection lawyer since 1995, helping thousands of New Yorkers fight back against abusive bill collectors and mortgage companies. His clients come from all walks of life...from the single parents struggling to get by and raise their kids to multi-generational families strung out by overwhelming medical bills.

Jay's clients rely on him to take on even the toughest cases, and to work tirelessly to achieve the results they deserve. He was the first lawyer in New York to get the U.S. Bankruptcy Court to rule – in multiple cases – that the refusal of a creditor to update a credit report after bankruptcy to show the debt as being discharged and having a \$0 balance was a violation of the U.S. Bankruptcy Code.

In the cases of *Torres v. Chase Bank USA, NA*, *Russell v. Chase Bank USA, NA* and *Gilyard-McKenzie v. HSBC Bank USA, NA* **the courts agreed with Jay** that his clients had the right to have their credit reports properly updated.

Jay understands not only the U.S. Bankruptcy Code, but all the other laws that impact consumers – the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Truth in Lending Act, Real Estate Settlement Procedures Act, and more. He is effective because he is informed, knowledgeable, and current.

Every year, Jay spends countless weeks in conference halls, listening to and learning from the greatest legal minds from around the country. He absorbs the best advice, identifies the strongest tactics and the most convincing arguments, and then adapts them to his clients' needs.

*“Learning never ends – the law changes every day, and my job is to make sure I’m on top of new developments. If I don’t know about a new legal development it could cost my client their case – and that’s just not acceptable.”* – Jay S. Fleischman

Jay is a member of the National Association of Consumer Bankruptcy Attorneys as well as of the National Association of Consumer Advocates. His peers elected him the New York State co-Chairperson for the NACBA for over two years. He is also co-founder and past President of the Bankruptcy Law Network.

Jay is proud to be a lifelong New Yorker, born and raised in Brooklyn. He and his wife – his college sweetheart – have been married since 2000.



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# INTRODUCTION

At one time or another, almost everyone has been contacted by a bill collector. It's not uncommon to forget to pay a cable bill or phone bill every now and then. And given the current economic times we face, more and more people are experiencing financial hardships that causes us to fall behind on our credit cards, mortgages, cars, medical bills, or other obligations.

Missing a bill payment – or even several of them – doesn't make you a criminal. But that's the way bill collectors and credit agencies make you feel.

The 'war' starts small, with a threatening letter or telephone call. Before long, things start to escalate and the creditors are calling at all hours of the day and night, bothering you at home and work. They call the neighbors, the family and employers. Every time the phone rings, you jump...fearful that it's 'them.'

With automated dialing and robot calling, the siege goes on day and night. Some bill collectors, especially in car purchases, come right to your door and annoy you at home. When a 'repo man' (or woman) attempts to repossess a car, it is common for them to start screaming, threatening, and insisting that it has to go, it cannot wait, and you must turn over the keys now or the police will be on doorstep in a matter of minutes.

Whatever these unscrupulous individuals call themselves – credit representatives, account supervisors, or collection agents – the bill collector's job is to get money out of your pocket and put it into his or hers. These collectors work on commission. They are normally paid about 25% of whatever they bully you into paying. Driven by greed, bill collectors will not look at your account to see if the bill is correct. **They harass now, question later.**

The collectors or agents accept what the computer tells them. However computers are neutral. Bill collectors are obnoxious, condescending and downright rude when you talk to them. And they are often breaking the law!

Regardless of how much money you owe, **you have the right to be treated fairly, courteously, and with respect.**



## WORST CASE SCENARIO

Debt collectors may try to imply that they can legally harm you in other ways because you owe them money. In reality, the worst thing they can do is sue you – and sometimes that is good for you. When or if you actually face a debt collector in court, you may find that their record of your debt is flimsy at best, and that they have been illegally charging you compounded interest and fees.

If you do get sued, **never ignore the lawsuit**. At a minimum, always

- Follow the directions on the court summons
- File a written answer with the court
- Do not let a default judgment be entered against you.

If you are sued, it's a good time to consult a lawyer. You may not need to hire one on a long term basis, but just getting some basic information may be very helpful...and financially beneficial in the long run. I frequently talk to prospective clients and find ways to help people that don't require a long, expensive legal process.

When your case is heard in court, you will have a chance to explain your side of the story. The lender or debt collector must produce certain minimum evidence in court to prove your debt, such as a signed contract and the like. Often they can't or don't produce these documents.

When you file an answer in court, you put the bill collector to the test of proving their case.

If you win, then all collection efforts should end. If you lose, the judge will sign a paper listing the amount you owe. This is called a “**judgment.**”

Even after a judgment has been entered, there may still be options. You may have the right to appeal the judge's decision if you think it is wrong.

If all else fails, even if a judgment is entered against you, every state has a list of “exempt” property that can’t be seized and, if you are employed, a minimum amount of wages that can’t be garnished. Social security and other benefits are also exempt. As a result, poor people who are unemployed and even some people who are working part-time or for low wages will not have to pay a judgment.

If a judgment is entered and your wages can be garnished or your property seized, the federal bankruptcy laws are available to protect you from undue hardship.

Having a competent attorney in your corner to help you defend against a creditor’s suit may be the best financial investment you can make. If you would like to contact me and learn more, you can find my email and phone number at the end of this report.

## THE LAW IS ON YOUR SIDE

As bad debt grows, debt collection agencies seem to be exerting greater pressure on honest, hardworking New Yorkers like you. While **peaceful debt collection is legal** and anyone who is owed money has the right to seek repayment...**creditor harassment isn’t**.

If you’ve fallen behind on your bills (especially credit cards) and a debt collector is harassing you, don’t panic! You may have several good options available to you by simply learning the truth about your rights. You can use the truth as a powerful sword to cut down collectors who use illegal and unethical debt collection tactics.

Please! Don’t let a debt collector talk you into high monthly debt repayment plans or into borrowing against the equity in your home. I urge you to regain financial control and peace of mind by learning your rights.

## IF YOU DISPUTE YOUR BILL

If you think you don't owe the money, or the amount the bill collector is claiming is incorrect, you should write a letter to both the collection company and the original creditor stating you do not agree you owe the money, or stating the amount owed is incorrect. You should also ask for a record of your payments.

If the bill collectors report the debt to a credit reporting agency, you should write to the credit reporting agency and tell them the bill is in dispute.

If, within thirty days after receiving written notice of the debt from the debt collector, you send the collection agency a letter stating that you do not owe the money, **the debt collector must stop contacting you.** The notice must be in writing, and must be hand delivered or postmarked within thirty days of the first written notice from the debt collector.

## EXHIBIT – DISPUTE LETTER

Date

Name

Address

City, State, Zip

Collection Agency's Name

Collection Agency's Address

Subject: Debt Collection Against [Your Name]

Creditor Name: [Creditor]

Account No. [Number]

Dear Account Representative,

I am writing pursuant to the Fair Debt Collection Practices Act, 15 USC 1692g, to inform you that I dispute the alleged debt associated with account [number \_\_\_\_\_] with [creditor]. I do not believe that I owe the amount alleged by you.

Your letter of [Date of letter from debt collector] was the first time I have heard from you about this alleged debt. Thus I am requesting that you provide the following information:

- Please explain the nature of the alleged debt - that is, what the money I allegedly owe is for
- Please provide an accounting explaining how you calculated what you allege that I owe
- Please provide me with copies of any contracts or documents which form a basis for the alleged debt
- Please provide me with the name and address of the original creditor.

I further request that you take the following actions:

- Please contact any credit agencies to whom you have reported this alleged debt, and inform them that I am disputing the debt
- Please also forward a copy of this letter to the creditor who alleges that I owe the debt at issue, and inform them that I am disputing the debt.

Except as specifically outlined herein, I am requesting that you cease all contact with me about the alleged debt.

Any further contact should be made in writing, and should be submitted to my home address by mail.

Sincerely,

[Your Name]

## IF YOU HAVE FILED BANKRUPTCY

If you have filed bankruptcy, it is against the law for the creditor or a collection company to contact you. If your case is still open, creditors can contact you only with permission of the Bankruptcy Court.

If a creditor or bill collector contacts you after your bankruptcy has been filed – whether the case is still open or not – you may have the right to sue for violations of the U.S. Bankruptcy Code or other laws. The court may order the creditor to pay you damages as well as any legal fees and court fees in connection with the violation.

## IF YOU OWE MONEY, BUT CANNOT MEET YOUR OBLIGATIONS

Even if you think you owe the debt but you just don't have the money to pay it, you do not deserve to be endlessly harassed by callers. You can send a **“no contact” letter** and tell the debt collector that they should not contact you anymore.

Send the letter in two different envelopes, one certified mail, return receipt requested, and the other regular first class mail. Say that you will not pay, and that you demand that they stop contacting you.

Again, be sure to identify yourself in the letter at least by name and address and identify the debt being collected as best you can, such as by account number, lender, or even just the name of the person(s) who called you. It is enough just to say in the letter “I refuse to pay” or “Do not contact me again.”

After you send the letter, you might receive one more letter telling you if the lender or debt collector plans to file a collection lawsuit. Otherwise, you should not receive any more letters or telephone calls from that debt collector, although they still have the right to file a suit against you.

Some collection agencies **knowingly violate the law as a calculated risk**. These collectors are hoping that you aren't aware of your legal rights and that you will crack under the relentless pressure and pay them.

Fortunately, in America, consumers like you have rights, too...under the Fair Debt Collection Practices Act.

If a creditor or bill collector contacts you after your bankruptcy has been filed – whether the case is still open or not – you may have the right to sue for violations of the U.S. Bankruptcy Code or other laws. The court may order the creditor to pay you damages as well as any legal fees and court fees in connection with the violation.



# FAIR DEBT COLLECTION PRACTICES ACT

The Fair Debt Collection Practices Act (FDCPA) clearly defines the rules that bill collectors and even collection attorneys must obey when collecting debts. The FDCPA applies to **personal, family, and household debts**, including debts associated with the purchase of a car, for medical care, for retail financing, for first and second mortgages, and for money owed on credit card accounts.

**Even where money is legitimately owed,  
a debt collector's conduct is restricted by this law.**

The FDCPA regulates the conduct of any person who regularly collects debts owed to others. This definition includes lawyers who perform debt collection services on a regular basis, such as collection agencies, lawyers who collect debts on a regular basis; and companies that buy delinquent debts and then try to collect them.

In-house collection agents are not ordinarily covered by the FDCPA. For example, if you have a store credit card, and the store's own collection department contacts you, the FDCPA does not apply. However if the same store uses an outside collection agency to contact you in relation to that same debt, the outside agency's conduct is restricted by the FDCPA.

Similarly, if the same store uses an in-house collection agent, but suggests to you that the collection is being performed by a third party, the FDCPA may apply to them as a result of that representation.

## UNDERSTANDING YOUR DEBT SITUATION

Your rights are guaranteed by law when you borrow money whether it is for buying a home, a car, or personal use. These rights protect you from being treated unfairly by creditors' representatives – the infamous collection agencies.

Your rights are different depending upon your specific situation. There are three main areas where people fall behind in payments. Let's look at each individually.



## GARNISHMENTS

Garnishment means that a creditor is taking money out of your wages, bank accounts, or other monies payable. A creditor cannot use a garnishment against you unless the creditor has won a judgment in court against you.

Many federal benefits cannot be taken in a garnishment, including:

- Social Security Benefits
- Supplemental Security Income (SSI) Benefits
- Veterans' Benefits
- Civil Service and Federal Retirement and Disability Benefits
- Service Members' Pay
- Military Annuities and Survivors' Benefits
- Student Assistance
- Railroad Retirement Benefits
- Merchant Seamen Wages
- Longshoremen's and Harbor Workers' Death and Disability Benefits
- Foreign Service Retirement and Disability Benefits
- Compensation for Injury, Death, or Detention of Employees of U.S. Contractors Outside the U.S.
- Federal Emergency Management Agency Federal Disaster Assistance

But federal benefits may be garnished under certain circumstances, including to pay delinquent taxes, alimony, child support, or student loans.

**The only way to end a garnishment** is to either pay the debt or file papers with the court that issued the judgment against you to prove that the funds are exempt.

## LEVIES AND ATTACHMENTS

A Levy (or Attachment) occurs when a creditor takes and sells your debt. A creditor can only get a levy against you if the court has issued a judgment.

The levying process starts when the sheriff or deputy comes to your home and itemizes all the property that can be sold to satisfy the creditors' judgment. Some property is exempt from levies, so it's important to talk to your lawyer immediately.

## REPOSSESSIONS

Repossession is when a creditor takes property that is secured by debt. For example, if an individual takes out a car loan and does not make his payments on time, the creditor may repossess the car. Debtors' have a number of rights that prevent creditors from treating them unfairly when repossessing property.

## DO YOU NEED AN ATTORNEY TO HELP DEFEND YOUR RIGHTS?

The answer to this question depends solely on you.

Despite the laws governing their actions many creditors and collection companies feel that an individual will not have the time, money or emotional strength to pursue them in court. They often get away with the outrageous and, sometimes, illegal acts.

Together we can help stop them! This guide was written to empower you and help you fight back against unfair collection practices.

If you have the time, patience, and energy to deal with the high-pressure tactics of a bill collector, you may be able to fend for yourself. The court system is there to help you, and the Internet provides lots of information, too.

But to be perfectly candid, if you misunderstand your rights, you could find yourself **further in debt** by paying a debt you aren't obligated to pay. An experienced lawyer knows about debtor's rights in your state, and can help you avoid further liability. An attorney might also help stop a collection practice being made against you.

*If a debt collector violates your rights under the Fair Debt Collection Practices Act the court can force them to pay you money damages, and also to pay your legal fees and court costs. So in many cases, it ends up costing you absolutely nothing to hire a lawyer to help you.*

If you wish to learn more about how I might be able to help you, please see the contact information at the end of this guide.

## LETTER TO STOP HARASSMENT

If you want a debt collector to stop contacting you, you must send the collection agency a written notice instructing them to stop. Once the collection agency receives that letter, they may contact you only one additional time to notify you that the collection agency or creditor intends to take a specific action in relation to the debt.

Sending this type of notice does not resolve the debt. For example, the creditor may still file a lawsuit against you in order to collect the debt, even if you prohibit further contact by the collection agency. However while the debt may not be resolved, the annoying phone calls will stop.

Remember that whenever you write to a bill collector, you should sign the letter, date it, and keep a copy for your own file. Remember, just calling the bill collector to say you do not owe the money may not leave a permanent record of the call. Like most bureaucracies, if it is not in writing, it does not exist.

Your rights are guaranteed by law when you borrow money whether it is for buying a home, a car, or personal use. These rights protect you from being treated unfairly by creditors' representatives – the infamous collection agencies.



# KNOW YOUR RIGHTS

Bill collectors who threaten and harass you are more than just annoying...**they're breaking the law!** Several Federal and state laws protect consumers like you – no matter how much money you owe. These laws discourage shady debt collectors from engaging in unfair business practices and compensate individuals who have been strong-armed.

**You have specific legal rights** to sue anyone who unlawfully threatens, berates, intimidates or harasses you; calls you during odd hours, make false representations about the debt or their intentions, or otherwise acts in ways forbidden by law (and there are many).

## THE DO'S AND DON'TS OF DEBT COLLECTORS

An aggressive collection agent will do anything to strong-arm you into dealing with them. Don't get sucked in! Insofar as collectors are concerned, ...

1. You do not need to discuss anything with a collector if you know you cannot pay.
2. You do not have to answer a phone for a collector (this works with caller ID).
3. You do not have to speak with the collector if you do answer.
4. You do not have to answer any questions at all posed by the collector.
5. You do not have to say "good-bye" before you hang up. (It's nice to be polite, but if the person you're dealing with is being unpleasant, it's perfectly fine to respond in kind)
6. You do not have to disclose information about assets or income.
7. You are not obligated to acknowledge that you owe the money! This is very important if the debt is old. By acknowledging the debt, you may actually extend the time the creditor can sue on it.

## FILING A SUIT OF YOUR OWN

You have the right to sue a collector in federal court within one year from the date the law was violated. If you win, the judge can require the collector to pay you for any damages you can prove you suffered because of the illegal collection practices, like lost wages and medical bills.

The judge can require the debt collector to pay you up to \$1,000, even if you can't prove that you suffered actual damages. You also can be reimbursed for your attorney's fees and court costs.

**Important:** Even if a debt collector violates the law in trying to collect a debt, the debt itself does not go away if you owe it.

## 11 THINGS DEBT COLLECTORS CANNOT DO...OR YOU'LL SUE

Now that you understand what debt collectors *should* do, let's talk about some of the things they *shouldn't*.

Regardless of the amount of your indebtedness, no credit has the right to make your life a living hell. Intimidation and harassment are illegal and the law says that bill collectors

1. **Cannot call you at inconvenient times, such as before 8:00 a.m. or after 9:00 p.m., about a bill.**
2. **Cannot communicate with third parties such as your neighbor, your butcher, your yard boy, or your Aunt Agatha.**
3. **Cannot contact you at work if they know that your employer prohibits it.**
4. **Cannot threaten you with criminal prosecution or call you on the phone**

repeatedly with the intention of harassing you

5. Cannot pretend to be someone else just to get in touch with you.
6. Cannot use or threaten violence
7. Cannot use obscene or profane language
8. Cannot claim that you will be imprisoned or your property seized, unless they are the lender on that property.
9. Cannot pretend to be an attorney, or add fees/charges that are not authorized
10. Cannot threaten to take any action that cannot legally be taken or that they do not intend to take
11. Cannot take a post dated check and then deposit it before the date on the check

These unprincipled activities are expressly prohibited by law. All of this information is written down in black and white in the Fair Credit Collection Practices Act.

## 16 THREATS A BILL COLLECTOR CANNOT MAKE...OR YOU'LL SUE

Never forget that if a bill collector violates any of the provisions of the law then you can sue them in court. Creditors have also committed an actionable offense if they make **any false, deceptive, misleading, representation of any means in connection with the collection of your debt.**



False statements often include threats to:

1. Attach your wages when unlawful or not intended – This includes threats to take more wages than is permitted by the federal limitation (wage attachment for a credit card debt, a non-student loan or for an obligation that is not support is generally illegal in many States, however, now that law has been expanded to rent and lease damages in some cases-you should check the statute to be sure).
2. Contact your employer about the debt.
3. Call you every day until the debt is paid.
4. Sell the debt to another company for the purposes of continuing collection on a time-barred debt.
5. Contact neighbors about the debt.
6. Contact the Immigration and Naturalization Service about you.
7. Threaten imprisonment or criminal punishment.
8. Report a financed vehicle as “stolen” because you missed one or more vehicle payments.
9. File or threaten to file criminal bad check charges on a post dated check that the collector solicited from you.
10. Immediate eviction (by an agent for a landlord); lockout, or seizure of personal property where such relief is limited by state law.

11. A disguised threat of suit. For example, a bill collector who requests ‘settlement prior to possible legal action” where the collection agency had no authority to sue or to retain counsel was held by a Federal District Court in Connecticut to be deceptive and in violation of the FDCPA.
12. A threat implying that the collection agency has multiple employees or investigators working to collect the debt, where only one or two people work for the agency.
13. A threat to collect or sue for collection costs, attorney’s fees, interest not pre-agreed to in excess of that allowed by statute, fines, or any other fee in excess of the actual amount due, unless the original agreement provides for the amount the collector threatens to collect. For instance, the collector cannot threaten to add attorney’s fees or his fees where the agreement you signed does not specifically provide for them.
14. Threats adding “collection costs, attorney’s fees” and similar additional charges have also been held to be deceptive and misleading, because they do not state exactly what debt is being sought.
15. Scare tactics – Threatening to sue or bring any kind of legal action where the threat is not followed through (i.e. a scare tactic), or any number or other threats designed to demoralize, humiliate, degrade; embarrass or intimidate a debtor into payment.
16. Any threat where the collector says he is legal counsel or an attorney/lawyer when he is not.

## OTHER LITTLE-KNOWN TACTICS THAT ARE ILLEGAL

*It is unlawful under to threaten suit if doing so is illegal or impossible.*

A collector's attorney cannot sue you in a state that is not your home state, under the FDCPA. Therefore, the threat is an empty one and empty threats are punishable under the FDCPA!

*It is unlawful for a letter threatening further legal action to be sent unless the lawyer who signed the letter has reviewed it.*

Do you believe that when thousands of letters issued the lawyer reviews each one? Where the correspondence is not reviewed by counsel, the correspondence violates the FDCPA. Look at the letters you receive from lawyers. Were they signed by hand? If not, perhaps they were not reviewed by a lawyer. You may have a case under the FDCPA.

*The collector's threat to "make this go legal" or to "turn the matter over to the legal department" may violate the FDCPA where the collector has no legal department.*

Do you think that the collector may be a collection operation only? If so, perhaps they have no legal department, i.e., the legal aspect is handled outside of the company. In this scenario is another violation of the FDCPA.

*It is also a violation to send a letter stating that the collector will "recommend litigation" or "advise the creditor to sue."*

Some of such correspondence has been found to violate the FDCPA because it, in essence purports to give legal advice to the creditor. The collector is not permitted to give legal advice, unless, of course, if the collector is an attorney himself.

There are dozens of ways in which a debt collector can break the law. Some collectors have gone so far as to threaten arrest, jail, or harm to loved ones, including informing friends and

work associates of financial problems. Any threat to do something that is not allowed by law is egregious and actionable.

The courts have decided thousands of cases on the subject and it is impossible to list all prohibited types of threats. Suffice it to say that if it seems wrong, it is worth speaking to a consumer protection lawyer. During my years in practice, I have seen far too many instances of this type of conduct.

If you live in the New York City area, I would be happy to discuss the particulars of your situation with you. You'll find contact information at the end of this guide.

## GET THE FACTS

Within five days of their first contact with you, the debt collector must send you a written notice telling you:

- How much money you reportedly owe;
- The name of the creditor to whom the debt is owed;
- That unless you, within thirty days after receipt of the notice, dispute the validity of the debt or any portion thereof, the debt will be assumed valid by the debt collector;
- That if you dispute the debt in full or in part within that thirty day period, the debt collector will obtain verification of the debt and mail it to the consumer; and
- That upon your written request within the thirty day period, the debt collector will provide you with the name and address of the original creditor, if different from the current creditor.

The first notice must also include a warning known as the “Mini-Miranda Warning” (below).

Please note that the thirty day notice requirement does not limit the debt collector from taking other measures to collect the debt during that initial thirty day period, as long as its action is not inconsistent with your right to contest the debt under the FDCPA.

## THE “MINI-MIRANDA WARNING”

Each time a debt collector contacts you, whether by phone or mail, he must give you what is known as a “Mini-Miranda Warning” This warning received that name because it is reminiscent of the warnings that police should give you if you are arrested. Personally, I hate this term because **it is not a crime to owe money.**

### Verbal Mini-Miranda

Though a “Mini-Miranda Warning” has nothing to do with criminal law, it should still contain the following words (or words imparting this meaning) to ensure that you – as a consumer – understand your rights.

“Hello, I am \_\_\_\_\_(name of collector). I am (or this office is) a debt collector. Information obtained during the course of this call will be used for the purpose of collecting the debt.”

### Written Mini-Miranda

Letters you receive in the mail from collectors also must contain similar warnings. If the letter does not state the following, or words similar or close to the following, you may also have a right of action.

“This is an attempt to collect a debt. Any information obtained will be used for that purpose. Unless within 30 days of your receipt of this notice, you notify us that you dispute the validity of this debt, it will be assumed to be correct.

If you notify this office within thirty days that you dispute the validity of the debt, we will obtain verification of the debt or a copy of the judgment.

If you request it within 30 days, we will provide you with the name and address of the original creditor (if different from the current creditor).”

Did you know that no bill collector or creditor has the right to contact any third person about your debt, except to get information solely to locate you? This means that if a bill collector or a creditor tells anyone except you that you owe them money, they too can be sued.

## VALIDATION OF DEBTS

Validation of the debt is every consumer’s right. You don’t need a reason. The fact that you request validation is quite enough to evoke to protection of the Fair Debt Collection Practices Act.

The Act provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall (unless already provided in the initial contact), send the consumer a written notice containing:

- The amount of the debt
- The name of the creditor to whom the debt is owed
- A statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector

- A statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt is disputed, the debt collector will obtain verification of the debt.

This means that if you write a debt validation request, a sample of which is available upon request, all communications and enforcement must stop until the debt is validated. Yes, that means lawsuits also.

**What happens if the collector refuses to validate the debt?** Good question! You should only be so lucky. If after a validation request under the Fair Debt Collection Practices Act, the collector refuses to cooperate, then the collector may not legally collect the debt. If the collector does collect, then the law is violated and a suit for damages may be brought.

*Did you know that no bill collector or creditor has the right to contact any third person about your debt, except to get information solely to locate you? This means that if a bill collector or a creditor tells anyone except you that you owe them money, they too can be sued.*



# THINGS YOU CAN DO

## CHECKLISTS

It is very important to keep copies of everything when communicating with anyone about your bills. This means keeping copies and records of all correspondence sent and received . . . even the envelopes!



If anyone violates the laws, then you will have the necessary documentation to prove it, and perhaps sue them in civil court. If you encounter difficulty and need to hire a lawyer or file a formal complaint, accurate records will help your case.

I recommend that you send a fax, certified mail, and regular first-class mail with proof of mailing [“certificate of mailing”]. This is necessary because they may not accept your certified mail and/or could deny receipt of the fax, With first class mail backed up by a certificate of mailing, you have gone the extra mile...and can prove it if necessary.

Print the outline below and use it as a checklist when preparing and mailing your letters.

## 9 STEPS FOR PREPARING DOCUMENTS TO FAX AND MAIL

1. Write the letter (initial or follow-up dispute, creditor’s agreement, or free credit report request etc.). Consider hand writing your letter but if you type it, be sure to sign it and send the original to avoid it looking like a form letter.
2. Sign and date all letters in blue ink.
3. Make 2 copies of your signed letter, and 2 copies of any attachments.
4. Fax the letter and all attachments, and then keep the fax confirmation sheet for your records.
5. Staple the original attachments to a copy of your letter, and save for your files. Send original letters but never send original receipts or other original documents.
6. Properly address two envelopes with your return address, but do not put stamps on them.

7. Staple one set of attachment copies to your original letter, and place in envelope #1.
8. Staple one set of attachment copies to a copy of your original letter, and place in envelope #2.
9. Take both letters to the Post Office and follow the mailing instructions.

## 2-STEP MAILING INSTRUCTIONS

When you mail items, it is wise to double-up on your efforts with two separate mailing packages:

- **Envelope #1** - Go to the post office and send it by certified mail with return-receipt requested. Then take the cash receipt stamped with the amount and date and when your certified return receipt arrives via the mail, save both of these in a file marked “Disputes”.
- **Envelope #2** - Go to the post office and have them send it by first class mail using a “certificate of mailing” (proof that it was mailed). Keep the dated/stamped cash receipt and ask for a dated/stamped “certificate of mailing” (small extra fee) receipt, then save both of these in a file marked “Disputes”.

## 8 ITEMS THAT PROVIDE PROOF OF MAILING

You should have the following items as proof for each letter you send:

1. A copy of the debt collection letter;
2. The envelope that the documents in number 1 came in;
3. A copy of your signed letter with attachments stapled to it;

4. A fax confirmation sheet;
5. A dated/stamped cash receipt from the post office (envelope #1);
6. A return-receipt, after it arrives in the mail (envelope #1);
7. A “certificate of mailing” receipt (envelope #2 - first-class letter); and
8. A cash receipt for the “certificate of mailing” (envelope #2).

## LET YOUR ATTORNEY TAKE OVER

If you have an attorney, you can instruct the debt collector to make all inquiries about the debt through your attorney. Once the debt collector has been instructed to make inquiries through your attorney, they should **no longer make any direct contact with you.**

The letter on the next page can be sent to debt collectors to tell them to contact your lawyer instead of you.

If you do not have an attorney, please contact me. My email and phone number are listed at the end of the guide, and I’m always just a call or click away.

## EXHIBIT – CONTACT MY ATTORNEY LETTER

Your Name

Your Address

Date

Collection Agency's Name

Collection Agency's Address

Subject: Debt Collection Against [Your Name]

Creditor Name: [Creditor]

Account No. [Number]

Dear Account Representative,

I am writing pursuant to the above account. This message is to inform you that I am now represented by an attorney in relation to the alleged debt associated with my account [number \_\_\_\_\_] with [creditor].

Please direct all further inquiries to my attorney:

[Attorney's Name and Address]

Thank you for your cooperation.

Sincerely,

[Your Name]



# LET ME HELP YOU

This consumer guide is meant to give you a foundation of knowledge with regard to your rights so you can make an informed decision about the best course of action for you.

However, each individual's situation is unique, and so there is no such thing as 'one size fits all' when it comes to financial advice.

Therefore, I'd like to invite you to talk with me, at your convenience...literally.

Most of my colleagues in the legal professional are very proud of their ‘offices’ – usually someplace that’s convenient for *them*, but not so convenient for clients. Face-to-face meetings mean you need to drive or take a subway, leave your family or workplace, losing time and money in the process.

And for what? All for the privilege of sitting in front of a desk to stare at the lawyer’s impressive diplomas and extensive library.

I don’t work that way. Why? Because it’s not fair.

You don’t need to see my impressive diplomas (though they are very impressive, all laminated and shiny) - you need to see my impressive results. You want help, not a pretty waiting room filled with old magazines and uncomfortable chairs.

My responsibility is to make things easier for my clients, not more difficult. If you need a lawyer, you already have enough to worry about. You shouldn’t have to wonder about who’s going to watch your kids or how you’re going to make up the lost time at work.

Thankfully, technology and a new way of doing business help make your life easier. There’s a new way of practicing law in the 21<sup>st</sup> Century, a client-centric way to do business with an emphasis on ease as well as success.

I do everything by phone, fax, email and even the old-fashioned U.S. Postal Service. I work where it’s most convenient and productive, coordinating the efforts of team members scattered around the country and beyond.

My computer and telephone systems are top-notch, and I’m available when and where you need me - not when and where I want you to be.

Sure, I've got a physical office. If you really want to meet me in-person, we can do that as well.

That translates into faster, more effective service than was possible just a few short years ago. It's the service you deserve, when and where you want it, aimed at getting you the results you want, too.

Please contact me by phone or email to see how I can help you.



The image shows a business card for Shaev & Fleischman, LLP. The card features a logo at the top center consisting of a downward-pointing triangle with horizontal lines, containing the text "SHAEV & FLEISCHMAN". Below the logo, contact information is listed in two columns. The left column includes a telephone number (T 646.722.8649), a fax number (F 646.349.7622), a website (W www.sflawny.com), and an email address (E help@sflawny.com). The right column includes the firm name "Shaev & Fleischman, LLP" in bold, followed by the address "350 Fifth Avenue, Suite 7210, New York, NY 10118".

**SHAEV  
&  
FLEISCHMAN**

**T** 646.722.8649  
**F** 646.349.7622  
**W** [www.sflawny.com](http://www.sflawny.com)  
**E** [help@sflawny.com](mailto:help@sflawny.com)

**Shaev & Fleischman, LLP**  
350 Fifth Avenue  
Suite 7210  
New York, NY 10118