

Using the FDCPA to Turn the Tables on Bill Collectors  
by Attorney David Grossack

For the past several year, my law practice has been increasingly focusing on using the Federal Fair Debt Collection Practices Act (FDCPA, Title U.S. Code § 1692) to help consumers whose lives are intruded into by ruthless companies seeking to squeeze every possible cent from them by means of all kinds of threats, badgering and other illegal conduct.

Abusive conduct in debt collection is unlawful and consumers have many rights that must be respected. Even technical violations of the law can bring consumers the opportunity to make claims against bill collectors.

For example, every time a debt collector makes any contact with a consumer/debtor (as opposed to a business debtor), he must give what is called a “mini-Miranda” warning, that is, notifying the debtor that the contact is an attempt to collect a debt, and that any information obtained will be used for that purpose. So if you tell a bill collector where you work, the bill collector may well end up garnishing your paycheck.

You also have the right to have a *validation* of the debt upon the request within 30 days. This means that you are entitled to see evidence that you really owe the money.

The debt collector is forbidden to tell third parties that you owe money. This is often broken by debt collectors. One jerk even asked a client’s brother to pay his debt for him.

Nor are they permitted to threaten to tell third parties that you owe money. This kind of behavior can definitely precipitate lawsuits.

Excessive phone calls can also result in liability for debt collectors.

Some debt collectors have been known to pretend to be police officers or court officials, which of course is quite illegal.

Recently, our office was able to recover twice from the same collection law firm, when that law firm contacted our client on two different occasions while we were representing her.

Incredibly, the lawyers didn’t bother to tell their staff that the supposed debtor had a lawyer!

Communicating with a debtor when the debtor is known to have a lawyer is, of course, completely illegal, and if lawyers do it, it violates Bar rules as well.

This is just an overview of some of the many ways bill collectors can wind up having the tables turned on them.

Claims against bill collectors are almost always made on a contingent basis. That means the client pays no legal fees unless there is a court award or settlement.

Be certain to take the time to document when you are called, and ask who is calling you, what their address is, and take notes.

Request that you not be called again.

(You can be certain that they will tape their conversation with you.)

Consultations about FDCPA cases are free, and our office practices nationally.

Call me at 617-965-9300 if you have a case or have any questions.