

How to Fight Back When Credit Card Companies Start Chasing You  
by Attorney David Grossack

Credit card companies have made themselves indispensable to most Americans, but they have also become a source of considerable aggravation, engaging in quite predatory behavior by charging high interest rates, over-limit fees, late fees and, of course, membership fees.

They engage in bullying tactics when you are late. They'll repeatedly call your cell phone when you are driving, use automatic dialing machines, hire callers with voices like ghetto thugs, and use most vile collection agencies who have scruples. They'll call you three times a day every day of the week to get your money.

People chased by credit card companies (or their lawyers, collection agencies, or debt buyers) are usually sickly, elderly, or lost a job or a business or just down on their luck.

They are allowed to charge high interest rates because states like Delaware and South Dakota permit interest rates to be anything the credit card company wants it to be, and have no usury laws that apply to credit cards. The U. S. Supreme Court has said that all other states have to accept the rates charged by these companies.

One South Dakota company charges 79% interest.

Not long ago, a superior court judge in Salem, Massachusetts refused to uphold a Citibank claim for 54% interest, issuing an opinion that anything above 18% is unconscionable. Unfortunately, the state appraisals court came to Citibank's rescue and overturned the decision.

Nevertheless, I would urge readers to seek a jury trial every time a credit card company sues claiming an interest rate over 16%, and raise a defense of unconscionability.

But before it gets that far, first look for your credit card membership agreement when you finally decide that you don't want to pay them anymore. That agreement gives you the address to write to when you have important business with them.

Send them a letter like this (mark it Exhibit "A"):

Dear \_\_\_\_\_ Bank:

I am writing to change the terms and conditions of my contract with you. From now on, my APR (annural percentage rate) is 0%. You agree to accept \$10 a month from me to pay off the balance and to undertake no further collection action so long as I continue to send in \$10 or more a month.

You agree not to report me to a credit reporting agency.  
I enclose \$50 towards my bill.  
Should you violate this new agreement, you agree to be liable for \$15,000  
for each violation.

Sincerely,  
Douglas Debtor

Write on the back of the check “payee agrees to the terms and conditions attached  
as Exhibit “A.” Staple the check to the letter.

The credit card company will cash the check and ignore the letter. Be sure you  
have a copy of the check (both sides) and of the letter.

If past experience is any predictor, they will cash the check.

Now when they come to recover their bill, you have a defense and a counterclaim.  
You may not win, but if you plead and argue your case properly and demand a jury trial,  
the credit card company will either compromise or give up.

In one case, the author insisted on taking the deposition of the president of the  
credit card company.

The lawyers just dismissed the case. It was over.

When you are sued, you have the right to pose written questions called  
“interrogatories” to the other side.

There are some questions the credit card company just doesn’t want to answer. I  
have seen them dismiss cases rather than answer the questions.

Similarly, requesting certain documents has made them walk away.

Very often, credit card companies will refer your account to a collection agency  
or to collection lawyers who don’t know what they are doing.

Sometimes they’ll sue a consumer after the statute of limitations is over. They  
recently did that to one of my clients and because that violated numerous state and  
federal laws, I obtained a monetary settlement for my client.

Sometimes they’ll continue to contact a client who is represented by a lawyer.  
One law firm did that to the same client of mine twice in the same case. They ended up  
paying us twice.

Sometimes they’ll call too many times even after you ask them to stop. This has  
resulted in settlement for our clients, too.

It is also against the law to tell relatives and friends about the alleged debt. Nevertheless, they do it. This works out well for me and my clients.

Recently, a court decision came down in a federal court in Massachusetts when a debt buyer sued a woman in the wrong court. Under federal law, debt collection lawyers sue a consumer in the court closest to where she lives. They didn't. She won money.

So you have rights, and there are strategies you can use to tame credit card companies and the bullies who work for them.

Don't put up with them. Fight back.

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