

Debt Collection

This article explains your rights and options under the law if you are facing debt collection.

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If a debt collector is contacting you about a debt, or you have been sued by a debt collector, you have rights, which vary depending on what stage of the collection process the matter is in.

如需本文件的中文譯本，請向下滾動至本頁底部的「相關表格」區段。(For a Chinese translation of this document, scroll down to the "Related Forms" section at the bottom of this page.)

Debt collectors are harassing me. Is that legal?

A federal law called the Fair Debt Collections Practices Act prohibits debt collectors from:

- Making false statements or using offensive language.
- Telling you that failure to pay your debt is a crime, or threatening you with jail time.

- Threatening to collect the debt from a third party, like your family or neighbors.
- Threatening to take your homestead or your paycheck.
- Calling you at work, or calling you between 9 pm and 8 am (unless you agree).
- Calling you when it has become aware that an attorney represents you and has that attorney's contact information.

You can also send a "cease-and-desist" letter to the debt collector by certified mail demanding that they stop harassing you at your home or work. Keep a copy for your records. If the debt collector continues to harass you, you may have grounds for a lawsuit.

How can I defend myself against a lawsuit from a creditor?

Know your rights:

- The creditor must file a lawsuit within 4 years from the date of your last minimum payment or promise to pay on the debt. Even if you owe the debt, you can still challenge it if it's over 4 years from your last payment or promise to pay.
- The creditor must send you a written demand for payment ("demand letter") at least 30 days before filing a lawsuit against you.
- If you don't owe the debt or the amount is wrong, reply to the demand letter within 30 days. For a form reply, go to [**What should I do when a debt collector contacts me?**](#)

The collection agency must provide a copy of the creditor contract if you ask for it. If the creditor has sold your debt to a collection agency, the agency is required to keep a copy of the contract between you and the original creditor on file that shows your account number with the original creditor. You have a legal right to ask for a copy of this contract to make the collection agency prove that they have the authority to collect the debt. Often the debt collection agency would rather not go through the trouble of locating, copying and sending you a copy of the creditor contract and will simply stop collection efforts against you rather than go through these extra steps.

How will I know if I'm being sued?

You will be served with legal papers by mail or by a process server. The first page is the “citation,” which will say: “You have been sued...” Read the documents to identify who is suing you and how much they claim you owe. File a written answer before the deadline (answer date). If you don’t file an answer or file it too late, the creditor wins by **default**.

What is an Answer?

An **Answer** is your first response to the lawsuit. Your answer can be a handwritten letter to the court that says you do not agree with the lawsuit. Include your case (cause) number and mailing address and any defenses you may have to the lawsuit; for example, the amount they

claim you owe is incorrect, the account isn't yours, or the debt is older than 4 years.

When is my answer date?

The citation will state when you must file an answer. In Texas county and district courts, the answer is due on the Monday following 20 days from when you're served; in Justice Court, the answer is due 14 days from when you're served.

Discovery Requests

The creditor may have included “**discovery** requests” in the form of Requests for Admissions, Interrogatories, or a Request for Production asking you for documents. You have 50 days to comply with these requests. If you do not answer the Request for Admissions, you will automatically lose the lawsuit.

An attorney is not required for you to answer the lawsuit or send discovery, but it's a good idea to contact a lawyer if you have defenses or claims against the creditor.

What if I ignore the lawsuit?

The creditor wins by default, and can get a court judgment against you for the amount you owe and try to collect on the judgment by seizing your property. By law, your

homestead and certain kinds of property and income are exempt. If everything you have is exempt, you may be “**judgment proof**.” If you’re not judgment proof, you don’t dispute the amount, and the lawsuit was filed on time, try to negotiate a payment agreement with the creditor.

Credit counseling can help with negotiations. For tips on finding a credit counselor, go to **Choosing a Credit Counselor**.

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